

LIVINGSTON COUNTY



CIVIL SERVICE RULES

2023 Edition

LIVINGSTON COUNTY CIVIL SERVICE RULES

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RULES FOR THE CLASSIFIED CIVIL SERVICE OF LIVINGSTON COUNTY

PURPOSE AND EFFECT

It is hereby declared to be the purpose of these rules to provide an orderly and uniform system for the administration of civil service in Livingston County on a basis of merit and fitness as provided in the Civil Service Law of the State of New York. These rules have the force and effect of law, and apply to all positions in the classified service of Livingston County as well as the towns, villages, school districts and special districts therein. These rules may be amended by the Personnel Officer after public hearing and subject to the approval of the State Civil Service Commission.

RULE 1

DEFINITIONS

Unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the terms mentioned, whenever used in these rules, shall be construed as follows:

1. "***Personnel Officer***" means the Personnel Officer of Livingston County.
2. "***Employee***" means the incumbent of a position appointed to the position in accordance with these rules and the Civil Service Law.
3. "***Position***" means an aggregation of duties to be performed and responsibilities to be exercised by one person in a civil division.
4. "***Eligible List***" means an official record established and maintained by the Personnel Officer as a public record which contains the names of those persons who have successfully completed an examination, listed in order of their final ratings from the highest to the lowest rank.
5. "***Part-time employment***" means any employment or a combination of one or more employments in a civil division in which an individual works fifty percent or less of the time prescribed as the standard work week by the governing body or other appropriate authority of the civil division or where the employee earns not more than one-half (1/2) of the rate assigned to the position if the position has been allocated to a graded salary schedule.

6. "**Transfer**" means the change, without further examination, of a permanent employee from a position under the jurisdiction of one appointing authority to a similar position under the jurisdiction of another appointing authority, or to a position in a different title under the jurisdiction of the same appointing authority.
7. "**Reassignment**" means the change, without examination, of a permanent employee from one position to another similar position in the same title under the jurisdiction of the same appointing authority.
8. "**Civil Division**" means each county, town, city, village, school district, community college, public authority, or special district.

RULE 2

ORGANIZATION OF PERSONNEL OFFICE

The Livingston County Personnel Office shall be under the supervision of a Personnel Officer. Such Personnel Officer shall be appointed by the County Board of Supervisors. The Personnel Officer shall have all the power and duties of a Municipal Civil Service Commission as provided in Civil Service Law.

RULE 3

EXEMPT CLASS

1. **Requirements of the Class.** Positions in the exempt class are those for which competitive or non-competitive examinations or other qualification requirements are not practicable. (Civil Service Law, Section 41.)
2. **List of Exempt Positions.** Positions in the exempt class shall be listed in Appendix A of these rules and made a part hereof.

RULE 4

NON-COMPETITIVE CLASS

1. **Appointments.** A position in the non-competitive class may be filled by the appointment of a person who meets the minimum qualifications established for such position by the Personnel Officer. A nomination for such an appointment shall state the qualifications of the nominee and shall be filed by the appointing authority with the Personnel Officer. Such appointment shall become effective only after approval by the Personnel Officer.

2. **List of Non-Competitive Positions.** Positions in the non-competitive class shall be listed in Appendix B of these rules and made a part hereof.

RULE 5

LABOR CLASS

1. **Requirements of the Class.** The labor class shall include unskilled laborers.

2. **Appointments.** A position in the labor class may be filled by the appointment of any person selected by the appointing officer of the agency where a vacancy exists, and the Personnel Officer may require applicants for employment in the labor class to qualify in such tests of their fitness for employment as may be deemed practicable.

3. **List of Labor Positions.** Positions in the labor class shall be listed in Appendix C of these rules and made a part hereof.

RULE 6

UNCLASSIFIED SERVICE

Positions in the unclassified service shall be listed in Appendix D of these rules and made a part hereof as though set forth in full herein.

RULE 7

RECRUITMENT OF PERSONNEL

1. **Residence requirements for municipal positions.** An applicant must be at the time of examination and for at least four months prior thereto a resident of the municipality in which appointment is to be made or any reasonable combination of municipalities both in and outside of New York State contiguous to the municipality in which appointment is to be made or contiguous to the municipality in which such municipality is located as determined by the Personnel Officer. Residence requirements may be suspended or reduced by the Personnel Officer in cases where recruitment difficulty makes such requirements disadvantageous to the public interest.

2. **Announcements of examinations.** The public announcement of an examination shall specify the application fee, if any, the title, salary or salary range, the duties of the position, the minimum qualifications required, the final date for filing applications, the subjects or scope of the examination and the relative weight thereof, and the date and place of the examination.

Public notice of open-competitive examinations shall be made at least twenty-five days before the date of the examination and must be conspicuously posted in a public place for fifteen days. The last day for filing applications shall be at least ten days before the date of the examination.

RULE 8

APPLICATIONS

1. **Place of Application**. Applications of candidates for positions in the competitive class and for positions in the non-competitive class must be addressed to the Livingston County Personnel Office.

2. **Notice of Approval/Disapproval**. The Personnel Officer shall notify each applicant of the disposition of his application. Approved applicants for competitive examination shall be given notice of their approval at least four days before the examination, by mail to the address stated in the application, or one day's notice by telegram.

3. **Exhibition of Application**. A candidate's application for examination may be exhibited, upon request, to the appointing officer to whom his name is certified, or to his representative; provided, however, that information therein relating to the candidate's national origin or indicating whether his citizenship is by birth or naturalization shall not be divulged. Before a candidate's application for examination is exhibited to the appointing officer or his representative, all reference therein to the candidate's national origin or to the basis of his citizenship shall be concealed.

RULE 9

DISQUALIFICATION

1. **Moral Character**. Good moral character and habits and a satisfactory reputation shall be requirements for appointment to any position subject to these rules. Any applicant who is found to lack such requirements shall be disqualified for examination, or after examination, for certification and appointment.

2. **Disrespect for Law**. A record of disrespect for the requirements and processes of law, including repeated traffic offenses or disregard of summonses for traffic offenses, may be grounds for disqualification for examination or, after examination, for certification and appointment.

3. **Burden of Proving Qualifications**. The burden of establishing his qualifications to the satisfaction of the Personnel Officer shall be upon the applicant. Any applicant who refuses to permit the Personnel Officer to investigate matters necessary for the verification of his qualifications or who otherwise hampers, impedes or fails to cooperate with the Personnel

Officer in such investigation shall be disqualified for examination or, after examination, for certification and appointment.

RULE 10

EXAMINATIONS

1. **Grading of Exams.** The marking of each competitor's examination shall be made on the scale of 100, which maximum shall represent the best performance possible, expected or attained, and 70 shall represent a performance meeting the minimum needs of the position to be filled. The Personnel Officer may, after the announcement of an examination is made, sub-divide the written examination into parts and require a passing mark of 70 in each of the parts in order that candidates be considered further for eligibility. Notice of such arrangement shall be given in the instructions on the written examination. Where the written test is prepared and rated by the State Civil Service Commission in accordance with Section 23, subdivision 2 of the Civil Service Law, the provisions of the rules and regulations of the State Civil Service Commission and Department dealing with the rating of examinations shall apply.

2. **Concealment of Identity of Examinee During Grading.** The Personnel Officer shall adopt a system to conceal the identity of the candidates' papers in a written examination until such written examination has been rated.

3. **Preservation of Exam Records.** For examinations prepared and rated by the Personnel Officer applications and examination records and papers of candidates shall be preserved until at least six months after the expiration of the eligible list resulting from such examination, but in no event may records be destroyed except in accordance with the policies of the State Commissioner of Education and the State Civil Service Commission. Whenever an oral test shall be prescribed as part of an examination, a stenographic or recording device record of all the questions and answers shall be made a part of the examination records.

4. **Notification of Grade/Rank and Review of Exam.** Every candidate in an examination shall be notified of his final rating and, if successful, of his relative position on the eligible list established as a result of the examination. Any candidate receiving such notice, or his duly authorized representative, may inspect his examination papers in the office of the Personnel Officer and in the presence of a designated representative of the Personnel Officer, provided he makes request for such inspection in writing within the period of ten days after the date of the post-mark of such notice. The application and examination papers of a candidate shall be exhibited only to the candidate or his duly authorized representative designated as such in writing. The application of an eligible who is being considered for appointment may be shown to the appointing officer.

5. (a) **Appeal of Grade to Personnel Officer.** A candidate who wishes to appeal to the Personnel Officer from his rating in one, or more, or all of the subjects of an

examination must submit such appeal in writing within twenty days after the earliest date on which his examination papers were made available for his inspection. Such appeal must show that a manifest error was made in the original rating. Such appeal shall be considered as opening all of the candidate's papers for review, whether resulting in a higher or lower average standing. No change in rating shall be made as a result of an appeal unless it shall affect the candidate's relative position on the eligible list.

5. (b) **Appeal of Grade to State.** For examinations prepared and rated under Section 23(2) of the Civil Service Law, the State Civil Service Commission shall have sole and exclusive authority to correct any errors in rating upon appeal or otherwise. The review of papers by candidates and the filing of appeals in such examinations shall be governed by the rules and regulations of the State Civil Service Commission and Department.
5. (c) **Correction of Errors.** The Personnel Officer may, at any time during the life of an eligible list resulting from an examination prepared and rated by the Personnel Officer, correct any clerical or computational errors in the ratings of candidates who competed in the examination.
5. (d) **Effect of Correction on Appointees.** Any change in an eligible list pursuant to this rule shall be made without prejudice to the status of any person previously appointed as a result of such examination.
6. **Rating Keys.** Rating keys shall be prepared for each examination held. Such keys shall be a permanent part of the record of each examination.

RULE 11

ELIGIBLE LISTS

1. **Preparation of List.** Every candidate who attains a passing mark in an examination as a whole and who meets the standards prescribed, if any, for separate subjects or parts of subjects of the examination shall be eligible for appointment to the position for which he was examined and his name shall be entered on the eligible list in the order of his final rating; but if two or more eligibles receive the same final rating in the examination, they shall be ranked in accordance with such uniform, impartial procedure as may be prescribed therefore by the Personnel Officer.

2. **Duration of List.** The date of the establishment of a list shall be the date fixed therefore by the Personnel Officer's certification, and shall be entered on such list. The duration of all eligible lists shall be fixed by the Personnel Officer's certification prior to the establishment of such lists, but shall not be less than one nor more than four years. The date of establishment

of a list and its duration shall be given to all successful candidates at the time when notice of standing on the eligible list is given to such candidates. Where the duration of an eligible list is fixed at less than four years, the Personnel Officer may, prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four years, provided that eligibles on such list are notified in writing of the extension of the eligible list.

3. **Inspection of List.** Eligible lists shall be open to public inspection at the Personnel Office. The names of persons who failed to receive a passing grade on the examination shall not be disclosed to the public.

4. **Correction of Errors.** The Personnel Officer shall have power in his/her discretion to correct any error and amend any eligible list where it appears that an error has been made. The Personnel Officer shall have power to revoke any eligible list where the provisions of these rules were not properly or sufficiently carried out; provided, however, that an eligible list shall not be revoked except after notice and an opportunity to be heard has been given to all persons whose names appear thereon. The reasons for such action shall be recorded by the Personnel Officer and reported to the State Civil Service Commission.

RULE 12

CERTIFICATION

1. **Certification of Eligibles.** The Personnel Officer shall determine the eligible list most nearly appropriate for the position to be filled, and shall certify to the appointing authority a sufficient number of eligibles from which selection for appointment may be made. When the name of any eligible is included in a certification for appointment, the names of all other eligibles on the list having the same final rating as such eligible shall likewise be included in such certification.

2. **Duration of Certification.** A certification issued by the Personnel Officer to an appointing officer shall be valid for a period of thirty days from the date of its issuance. After the expiration of such thirty-day period, no appointment shall be made except from a new certification unless the Personnel Officer, for good cause shown, extends the certification for an additional thirty days for a maximum of sixty days upon request of an appointing authority.

3. **Canvassing the List.** When an eligible is canvassed for appointment or is offered appointment in writing and fails to state his willingness to accept such appointment within four business days after the mailing of such canvass or offer, or before the end of the next succeeding business day if such canvass or offer is sent to him by telegram, he may be considered ineligible for purposes of making selection for such particular appointment.

4. **Declination of Appointment.** The name of the person declining appointment shall be eliminated from further certification from the eligible list unless declination is for one or more of the following reasons: (a) Insufficiency of compensation offered when below minimum of grade of the position for which the examination was held; (b) Location of employment; (c) Temporary inability, physical or otherwise, which must be satisfactorily explained by the eligible in writing;

(d) Other reason(s) deemed acceptable to the Personnel Officer. The Personnel Officer shall enter upon the eligible list the reasons for its action in such cases.

5. **Appointments from List.** Except as otherwise provided herein, appointment or promotion to a position in the competitive class shall be made by the selection of a person on the most nearly appropriate eligible list who is willing to accept such appointment and whose final rating in the examination is equal to or higher than the rating of the third highest ranking eligible on the list indicating willingness to accept such appointment. The term "ranking" as used herein refers to the order in which the names of eligibles appear on the eligible lists as provided in Rule 11.

6. **Nomination for Appointment.** Whenever a vacancy exists in a position in the competitive class and an open competitive examination duly advertised results in three or fewer approved applicants for the examination, the appointing officer may nominate to the Personnel Officer one of the applicants who may be certified for appointment to fill the vacancy without further examination, provided that he has already qualified in an examination of equivalent character within the last four years from the date of nomination.

7. **Compensation of Appointee.** Wherever one or more eligibles shall have declined any appointment offered and an eligible whose relative standing is lower and who was reachable on the certification only because of the aforesaid declination shall have been appointed to the position, the salary or compensation of such appointee shall not be increased, except by a service or a class-wide increase, within a period of six months after his appointment beyond that offered to the persons so declining.

8. **Appointments to Reclassified Positions.** An open-competitive, promotion or preferred eligible list shall not be certified for filling a permanent competitive class vacancy created by reclassification of a permanently encumbered competitive class position if appointment or promotion from such list would require the lay off of a permanent competitive class employee; but this provision shall not apply if the incumbent whose position was reclassified, following such reclassification, either refused to take an examination for such reclassified position or failed to qualify for appointment, examination or promotion to the reclassified position.

9. **Waiver of Examination for Licensed Individual.** Whenever a vacancy exists in a position in the competitive class and an open-competitive examination duly advertised results in three or fewer approved applicants, and the announced minimum qualifications for the position included a requirement of possession of a license or certificate in a profession issued by the State of New York, the Personnel Officer may waive the examination and certify for appointment to the appointing authority the names of such qualified applicants, provided, however, that such applicants have been licensed or certified in the profession by the State of New York.

RULE 13

PROMOTIONS

1. **Eligibility.** In no case shall any person be eligible to participate in a promotion examination until he has served at least six months on a permanent basis in a lower grade position.

2. **Nominees for Non-competitive Examination for Promotion.** Any person who is nominated for non-competitive examination for promotion to a position and who fails to pass two successive examinations for such promotion shall not thereafter be eligible for employment in such position, except by appointment or promotion from an eligible list established following competitive examination.

3. **Eligibility - Salary.** Promotion examinations for non-competitive class employees shall, in addition to the requirements of Civil Service Law, Section 52 (12), require that applicants shall have been employed in a full-time position at a salary level less than that assigned the position for which promotion examination is to be held.

4. **Non-competitive Promotion.** When a vacancy exists in a permanent competitive class position and a permanent competitive class candidate in direct line of promotion, as defined in these Rules, is nominated for non-competitive promotion examination in accordance with Section 52 (7) of Civil Service Law, the Personnel Officer may, determine that the appropriate examination for such non-competitive promotion shall consist of a review of the candidate's training and experience at the time of nomination.

If the Personnel Officer determines the candidate's training and experience meets or exceeds the open competitive qualifications for the position, the candidate shall be certified as eligible for permanent promotion appointment to the position subject to probationary period.

RULE 14

PROBATIONARY TERM

1. **Probationary term.**

(a) **Duration - Generally.** Except as otherwise provided in these rules, every permanent appointment from an open competitive list and every permanent appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight nor more than fifty-two weeks.

(b) **Duration - Trainee Positions.** The probationary term for a Trainee position, in which an appointee is required to serve a specified training term, shall be not less than twelve nor more than fifty-two weeks.

- (c) **Duration – Code Enforcement Officer Positions.** The probationary term for a Code Enforcement Officer position shall be not less than eight nor more than seventy-eight weeks.
- (d) **Duration – Appointment from Promotion List.** Every permanent appointment from a promotion eligible list shall be for a probationary term of not less than eight or more than twenty-six weeks. Upon written notice of the appointing authority the probationary period upon promotion may be waived and the appointee given a permanent appointment.
- (e) **Permanent Appointment.** An appointment shall become permanent upon the retention of the probationer after his/her completion of the maximum period of probation or upon earlier written notice following completion of the minimum period of probation that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Personnel Officer.
- (f) **Unsatisfactory Performance.** If the conduct or performance of a probationer is not satisfactory, his/her employment may be terminated at any time after the completion of the minimum period of probation, and on or before completion of the maximum period of probation in the manner as prescribed in these rules.

2. **Transfers to Positions in the Same Civil Division.**

- (a) **Same Civil Division.**

Every transfer from a position to another in the same civil division shall require a probationary term of not less than a minimum of eight (8) weeks nor more than twenty-six (26) weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at any time after the completion of the minimum period of probation, and on or before the completion of the maximum period of probation.
- (b) **Different Civil Division.**

Every transfer from a position in one civil division to a position in another civil division shall require a probationary term of not less than a minimum of eight (8) weeks, up to a maximum of twenty-six (26) weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at any time after the completion of the minimum period of probation, and on or before, the completion of a maximum period of probation. The Livingston County Personnel Officer shall advise the prospective transferee in writing, prior to approval of the transfer, that an eight to twenty-six week probationary term is required and must be successfully completed to obtain permanent status in the position to which transfer is sought. The prospective transferee shall be advised it is his/her responsibility to request a leave of absence from the releasing agency. Unless the prospective transferee obtains a leave of

absence, the releasing agency is not required to hold a position to return to should the probationary period not be successfully completed.

- (c) **Waiver.** The appointing authority, having jurisdiction over the position to which transfer is sought may elect to waive the probationary term in (2a) or (2b) by written notification to the transferee and the Personnel Officer.
3. **Restoration to permanent position.** When a permanent employee is promoted or transferred to a position in which he/she is required to serve a probationary term, the position thus vacated by him/her shall not be filled, except on a temporary or contingent permanent basis, during such probationary term. At any time during such probationary term the employee shall have the right to return to his/her previous position at his/her own election. If the conduct or performance of the probationer is not satisfactory, he/she shall be restored to his/her former permanent position at the end of his/her probationary term.
4. **Absence during probationary term.** Any periods of authorized or unauthorized absence aggregating up to ten work days during the probationary term, may, in the discretion of the appointing authority, be considered as time served in the probationary term. Any such periods of absence not so considered by the appointing authority as time served in the probationary term, and any periods of absence in excess of periods considered by the appointing authority as time served in the probationary term pursuant to this subdivision shall not be counted as time served in the probationary term. The minimum and maximum periods of the probationary term of any employee shall be extended by the number of work days of his/her absence which, pursuant to this subdivision, are not counted as time served in the probationary term.
5. **Report on probationer's service.** The appointing authority and supervisor of a probationer will carefully evaluate the probationer's work performance of the duties and responsibilities of the position. A probationer whose services are to be terminated for unsatisfactory service shall be given written notice prior to such termination and, upon request, shall be granted an interview with the appointing authority or his/her representatives.
6. **Restoration to eligible list.** A probationer whose employment is terminated or who resigns before the end of his/her probationary term may request that his/her name be restored to the eligible list from which he/she was appointed, provided such list is still in existence. His/her name may be restored to such list if the Personnel Officer in his/her discretion determines that the probationer should be given a second opportunity for appointment.
7. **Temporary, Provisional or Contingent Permanent Service in Higher Level Position.** When an employee who has not completed his/her probationary term is appointed on a temporary, provisional or contingent permanent basis to a higher level position, the period of temporary, provisional or contingent permanent service rendered by such employee in such higher level position may, in the discretion of the

appointing authority, be considered as satisfactory probationary service in his/her lower position and may be counted as such in determining the satisfactory completion of the probationary term. At any time after the expiration of the minimum period of the probationary term, or the entire probationary term if it be one of fixed duration, the appointing authority shall, on request of such probationer, furnish his/her decision in writing as to whether or not service in such higher level position shall be considered as satisfactory probationary service. In the event of an adverse decision by the appointing authority, such probationer at his/her request, shall be returned to his/her lower position for sufficient time to permit him/her to complete his/her probationary term. The employment of such a probationer in his/her lower position shall not be terminated at the end of his/her probationary term on account of unsatisfactory service unless he/she shall have actually served in such position, in the aggregate, at least the minimum period specified for such probationary term or the entire probationary term if it be one of fixed duration.

8. **Removal during probationary term.** Nothing contained in this rule shall be construed to limit or otherwise affect the authority of an appointing authority pursuant to section seventy-five of the Civil Service Law, or applicable negotiated disciplinary procedures, at any time during the probationary term, to remove a probationer for incompetency or misconduct.
9. **Probationary Term Upon Reinstatement.**
 - (a) An employee who is reinstated to a position after a separation of more than one year, either in his/her former jurisdiction or in another jurisdiction shall serve a new probationary period in the same manner and subject to the same requirements as apply upon the original appointment to such position.
 - (b) An employee who is reinstated to a position after a separation of less than one year in an agency other than the one in which he/she formerly served, shall serve a new probationary term in the same manner and subject to the same requirements as applied upon an original appointment to such position.
10. **Permanent Appointments of Police Officers.** Notwithstanding any other provisions of these rules, if a police officer is promoted to a higher rank for which he/she has met all requirements of eligibility for permanent promotion except training requirements applicable under section two hundred nine-q of the General Municipal Law, he/she shall be deemed to be on leave of absence from the lower rank position from which he/she was promoted pending completion of such training. During such period, such lower rank position may not be filled except on a temporary or contingent permanent basis. In the event of his/her failure to successfully complete such training within the time allowed therefore, he/she shall be restored to such lower rank position.

RULE 15

SEASONAL AND EMERGENCY DEFENSE AND TRAINEE APPOINTMENTS

1. **Appointment to a seasonal position in competitive class.**
 - (a) **“Seasonal” Definition.** Positions in the competitive class where the nature of service is such that it is not continuous throughout the year, but recurs in each successive year, except as herein otherwise provided, shall be designated as seasonal positions and shall be subject to the provisions of these rules applicable generally to positions in such class.
 - (b) **Reemployment Rights.** Upon the expiration of the employment season, the names of all persons employed in such seasonal positions shall be entered upon a seasonal re-employment list in the order of their first appointment, to the title vacated by them at the expiration of such employment season. Such seasonal reemployment list shall be certified to the appointing authority at the commencement of or during the next employment season, and the persons whose names appear thereon as still qualified shall be entitled to re-employment in such positions in the order in which their names appear on such list. Any such person may be re-examined by the Personnel Officer with respect to his physical fitness for the performance of the duties of the position, and may be disqualified for re-employment in the same manner, and for any of the reasons applicable to the disqualification of an eligible on an eligible list resulting from open competitive examination.
 - (c) **Duration of Reemployment Rights.** The name of any person on such list who is not reached for re-employment shall remain on such list and shall be certified in the order of the date of his first appointment to such position during subsequent employment seasons; provided, however, that the eligibility for re-employment of any such person shall not continue for a period longer than three years from the date of his separation from such seasonal employment. A seasonal re-employment list shall not be deemed to be a preferred list as provided for in section eighty-one of the civil service law.
2. **Emergency defense appointments.**
 - (a) **“Emergency Defense” Definition.** Any position in a civil defense agency or any position created in a governmental agency to perform civil defense or other national emergency functions, which is unique and peculiar to civil defense or national emergency activities and which is not comparable to any regular, standard position in the classified civil service, may be designated, with the consent of the Personnel Officer and upon the approval of the State Civil Service Commission, as an emergency defense position. No position involving conventional and stable duties of the nature of those performed in the regular and normal functions of civil government, or having as a counterpart a position in any

regular, established department or agency of civil government, shall be designated as an emergency defense position. An emergency defense position may be filled on a temporary basis for a period not to extend beyond the duration of the New York State Emergency Defense Act. Appointments to such positions shall be designated as emergency defense appointments. All positions designated as emergency defense positions shall be listed in Appendix E of these rules and made a part hereof as though set forth in full herein.

- (b) **Leave of Absence to Serve.** Any permanent employee who, with the consent of his appointing officer, accepts an emergency defense appointment under this subdivision shall be granted a leave of absence from his permanent position until the termination of such appointment.

3. **Trainee Appointments.** The Personnel Officer may require that permanent appointment or promotions to designated positions shall be conditioned upon the satisfactory completion of a term of service as a trainee in such a position or in an appropriate, lower training title or the completion of specified training or academic courses, or both. The period of such term of training service shall be prescribed by the Personnel Officer. Upon the satisfactory completion of such training term, and of specified courses if required, an appointee shall be entitled to full permanent status in the position for which appointment was made. Any appointment hereunder shall be subject to such probationary period as is prescribed in these rules. Also, the employment of such person may be discontinued if his conduct, capacity or fitness is not satisfactory, or at any time if he fails to pursue or continue satisfactorily such training or academic courses as may be required.

RULE 16

EFFECT OF TEMPORARY OR PROVISIONAL APPOINTMENT ON STATUS OF APPOINTEE

1. **Effect of temporary appointment on eligibility for permanent appointment.** The acceptance by an eligible of a temporary appointment shall not affect his standing on the eligible list for a permanent appointment, nor shall the period of temporary service be counted as part of the probationary service in the event of subsequent permanent appointment.
2. **Provisional appointment of permanent employee.** When a permanent competitive class employee is given a provisional appointment to another competitive class position in the same department or agency, the position thus vacated by him shall not be filled on other than a temporary basis pending his reinstatement thereto upon failure of his provisional appointment to mature into permanent appointment.

3. **Successive provisional appointment.**

- (a) **Refusal to Take Exam.** No provisional employee who has refused to take an examination held for permanent appointment shall be given another provisional appointment in the same position.
- (b) **Failing the Exam.** No provisional employee who has twice failed an examination for permanent appointment shall be given another provisional appointment in the same position; provided, however, where an examination fails to produce any qualified eligibles, or where an eligible list is depleted of all eligibles immediately following its establishment, the Personnel Officer, may at his/her discretion, allow a third provisional appointment.

4. **Contingent permanent appointments.**

- (a) **Temporary Vacancies.** A position left temporarily vacant by the leave of absence of the permanent incumbent may be filled, at the discretion of the appointing authority, by a contingent permanent appointment through the use of an open-competitive or promotion eligible list. Any person appointed on a contingent permanent basis shall have all the rights and benefits of a permanent competitive class employee subject to the following limitations:
 - (1) **Probationary Period.** All appointments under this rule shall be required to complete the probationary period for original appointment or promotion as prescribed in this rule.
 - (2) **Return of Incumbents:** In the event of a layoff or if the permanent incumbent returns from leave of absence, persons holding positions on a contingent permanent basis shall be displaced before any persons holding permanent status in the same title regardless of total seniority. In the event more than one position in the same title is held by persons having contingent permanent appointments, displacement among those persons shall be based on the inverse order of their contingent permanent appointments.
 - (3) **Preferred List:** Upon displacement, if the contingent permanent appointee was appointed from a promotion eligible list he/she shall be restored to his/her permanent position and have his/her name placed on a preferred eligible list for certification as a mandatory list only to the department or agency in which the contingent permanent appointment was made. If the contingent permanent appointee was appointed from an open-competitive eligible list and does not have a permanent position to return to, he/she shall have his/her name placed on a preferred eligible list for certification as a mandatory list in the civil division in which the contingent permanent appointment was made.

- (4) **Seniority:** When a contingent permanent appointment matures into a permanent appointment, the date of permanent service shall be the date of the original contingent permanent appointment.
- (b) **Notice to Prospective Appointees.** All prospective appointees under this rule shall receive a copy of this rule and be canvassed as "permanent-contingent permanent."
- (c) **Eligibility.** Contingent permanent appointments from eligible lists shall be made by selection of one of the top three candidates on an appropriate eligible list willing to accept a contingent permanent appointment; there will be no re-canvassing of the eligible list in the event the contingent permanent position becomes unencumbered. Acceptance of a contingent permanent appointment will remove the person's name from the eligible list for any future contingent permanent or permanent vacancies within the department or agency in which the contingent permanent appointment was made.
- (d) **Eligibility for Permanent Appointment in Department/Agency.** If a permanent vacancy becomes available in the same title in the department or agency in which a contingent permanent appointment has been made, contingent permanent appointees may be offered reassignment, prior to canvassing for a permanent appointment from an appropriate eligible list or prior to appointing a temporary or provisional to the positions.
- (e) **Obtaining Permanent Status.** When a position filled by a contingent permanent appointee becomes unencumbered, the contingent permanent appointee in that position shall immediately gain permanent competitive class status in the class if the required probationary period as prescribed in this rule has been satisfactorily completed.
- (f) **Filling Appointee's Previous Position.** When a permanent competitive class employee accepts a contingent permanent appointment in the same civil division, the position vacated by such employee shall not be filled except on a temporary or contingent permanent basis until the contingent permanent appointment matures into a permanent appointment.

RULE 17

TRANSFERS

1. **Transfer of eligibility for permanent appointment.** Upon the written request of an individual and the prospective appointing authority, and subject to the approval of the Personnel Officer, any individual serving in a competitive class position as a permanent appointee may be permanently appointed to another competitive class position subject to these rules without further competitive examination, provided:

- (a) **No Preferred List.** There is no preferred list appropriate for filling the position to which appointment is sought containing the name of an eligible willing to accept appointment; and
- (b) **No Promotion List.** There is no departmental promotion list for the position to which appointment is sought containing the names of three or more eligibles willing to accept appointment; and
- (c)
 - (1) Exam Scope Identical. The Personnel Officer determines that the examinations' scopes and qualifications for the position held and to which appointment is sought are identical; *or*
 - (2) Exam Satisfies Requirements. When the examinations' scopes and qualifications are not identical, the New York State Department of Civil Service has determined that the examination for the position held involved or would involve essential tests and qualifications the same as or greater than those of the position to which appointment is sought; and
- (d) **Good of the Service.** The Personnel Officer has determined that such appointment is for the good of the service.

RULE 18 REINSTATEMENT

- 1. (a) **Eligibility after Resignation.** A permanent employee who has resigned from his/her position may be reinstated without examination within four years from the date of such resignation in the position from which he/she resigned, if then vacant, or in any vacant position to which he/she was eligible for transfer or reassignment. In computing the four-year period within which a person may be reinstated after the resignation, the day of the resignation takes effect, any time spent in active service in the military or naval forces of the United States or of the State of New York, and any time served in another position in the civil service of the same municipality shall not be considered. In an exceptional case, the Personnel Officer may, subject to the approval of the State Civil Service Commission, for good cause shown and where the interests of the government would be served, waive the provisions of this rule to permit the reinstatement of a person more than four years after resignation. For the purpose of this rule, where an employee on leave of absence resigns, such resignation shall be deemed effective as of the date of the commencement of such leave.

- (b) **Eligibility after Lay Off.** An employee who is laid off from the civil service of a municipality shall be eligible for reinstatement in the same manner as an employee who had resigned.

2. **Refusal or failure to accept reinstatement from preferred list.**

- (a) **Duration.** Preferred list eligibility shall continue for four years.
- (b) **Relinquishment of eligibility for reinstatement.** The failure or refusal of a person on a preferred list, after reasonable notice, to accept reinstatement there from to his/her former position, or any similar position in the same salary grade for which such list is certified, shall be deemed to be a relinquishment of his/her eligibility for reinstatement, and his/her name shall be thereupon stricken from such preferred list. The name of such person may be restored to such preferred list and certified to fill such appropriate vacancies as may thereafter occur only upon the request of such person and his/her submission of reasons satisfactory to the Personnel Officer for his/her previous failure to accept reinstatement.
- (c) **Effect of refusal to accept reinstatement to lower grade position.** A person on a preferred list shall not be deemed to relinquish his/her eligibility for reinstatement there from by reason of his/her failure or refusal to accept reinstatement to a position in a lower salary grade than the position from which he/she was suspended or demoted. The name of such person may be withheld from further certification for reinstatement to a position in a lower salary grade than the position to which he/she failed or refused to accept reinstatement.
- (d) **Restoration to eligibility for reinstatement not to affect previous appointments.** The restoration of the name of a person to a preferred list, or his/her restoration to eligibility for certification there from to positions in a lower salary grade than his/her former position, shall not invalidate or in any manner adversely affect any appointment, promotion, reinstatement or demotion previously made to any position to which such person would otherwise have been eligible for reinstatement from such preferred list.

RULE 19

LEAVE OF ABSENCE

- 1. **Duration.** A leave of absence without pay, not to exceed one year, may be granted to an employee by an appointing officer. Notice of such leave of absence shall be given to the Personnel Officer. Where a leave of absence without pay has been granted for a period which aggregates one year, a further leave of absence without pay shall not be granted unless the employee returns to his position and serves continuously therein for three months immediately preceding the subsequent leave of absence. Notice of such subsequent leave of absence shall also be given to the Personnel Officer. Absence on leave for more than one year shall be deemed the

equivalent of a resignation from the service upon the date of commencement of such absence, except as provided in subdivision 2 of this rule.

2. **Extension of Leave of Absence.** In an exceptional case, the Personnel Officer may for good cause shown, waive the provisions of this rule to permit an extension of the leave of absence for an additional one year period. In no case may such leave of absence exceed in aggregate two years from the date of commencement of such leave.

3. **Veteran's Educational Leave.** A leave of absence without pay, not to exceed four years, shall be granted by an appointing officer to an employee who is a veteran of the Armed Forces of the United States, providing such a leave of absence is for the purpose of taking courses under the educational benefits provided for in Title 38, United States Code or under a New York State Board of Regents War Service Scholarship, Education Law, Section 614. An employee taking such a leave shall be reinstated to his position, provided he makes application for such reinstatement within sixty days after the termination of his courses of study.

RULE 20

RESIGNATION

1. **Resignation in writing.** Except as otherwise provided herein, every resignation shall be in writing.

2. **Effective date.** If no effective date is specified in a resignation, it shall take effect upon delivery to or filing in the office of the appointing authority. If an effective date is specified in a resignation, it shall take effect on such specified date. However, if a resignation is submitted while the employee is on leave of absence without pay, such resignation, for the purpose of determining eligibility for reinstatement, shall be deemed to be effective as of the date of the commencement of such absence. Notwithstanding the provisions of this section, when charges of incompetency or misconduct have been or are about to be filed against an employee, the appointing authority may elect to disregard a resignation filed by such employee and to prosecute such charges; and, in the event that such employee is found guilty of such charges and dismissed from the service, his termination shall be recorded as a dismissal rather than as a resignation.

3. **Withdrawal or amendment.** A resignation may not be withdrawn, cancelled or amended after it is delivered to the appointing authority, without the consent of the appointing authority.

4. **Voluntary Demotion of Permanent Competitive Employee.** An employee who voluntarily elects to relinquish his permanent competitive class status to a position and accept a demotion, must deliver a statement of relinquishment to the appointing authority. Upon receipt of the statement of relinquishment by the appointing authority, the employee may be reinstated to any vacant lower salary level position for which he is eligible for such reinstatement as provided in these rules. Such statement of relinquishment shall not take effect until the employee is reinstated to the lower level position.

RULE 21

REPORTS OF APPOINTING OFFICERS

For the purpose of certification of payrolls and to enable the Personnel Officer to keep an official roster of the classified service as required by law, each appointing officer, from time to time, and upon the date of the official action in each case, shall report to the Personnel Officer as follows:

- (a) **Appointments.** Every appointment or employment whether probationary, temporary or otherwise, in the classified service, with the date of commencement of service and the title and compensation of the position.
- (b) **Declinations.** Every failure to accept an appointment under him by a person eligible therefore, with copies of the offer or notice of appointment and the reply thereto, if any.
- (c) **Discharge During Probation.** Every discharge during or at the end of probationary term with the date thereof.
- (d) **Vacancies.** Every vacancy in a position, for whatever reason with the date thereof.
- (e) **Abolition of Position.** Every position abolished, with the date of such abolition.
- (f) **Compensation Changes.** Every change of compensation in a position, with the date thereof.
- (g) **Promotions.** Every promotion, giving positions from which and to which made, with the salaries and the date thereof.
- (h) **Transfers.** Every transfer, giving the positions from which and to which made, with the date and salaries thereof.
- (i) **Reinstatements.** Every reinstatement in a position, with the date and salary thereof.
- (j) **Leaves of Absence.** Every leave of absence, with the date and duration thereof.
- (k) **New Positions.** Every new position, giving a complete description of the duties thereof.

RULE 22

CERTIFICATION OF PAYROLLS

1. **Certification required prior to payment.**

a. No person shall receive salary or compensation until the Personnel Officer has certified his or her employment to be in compliance with the provisions of the Civil Service Law and these Rules.

b. The Personnel Officer shall not certify the name of any person employed in a manner that does not comply with the provisions of the Civil Service Law and these Rules.

2. **Extended certification.**

a. The Personnel Officer may certify the employment of a person for a limited or extended period. No further certification shall be necessary for the payment of salary or compensation to such person as long as his or her status, title, and salary grade remain unchanged during the period of the certification granted.

b. The Personnel Officer shall require certification of the full payroll of every civil division under its jurisdiction at least once every fiscal year, and shall require such certifications according to the following schedule.

<u>Civil Division</u>	<u>Payroll(s) to be Certified:</u>
County	First Full Payroll in January
Cities	First Full Payroll in February
Towns	First Full Payroll in March
Villages	First Full Payroll in May
School Districts	First Full Payroll in October
All Other Agencies Or Special Districts	First Full Payroll in June

c. The Personnel Officer may, at any time, require any civil division under its jurisdiction to submit payrolls or accounts for certification in accordance with §100(1) of the Civil Service Law.

d. Annual certifications provided by the Personnel Officer shall be valid for a period of no more than 12 months following the scheduled date of certification established in these Rules. Certifications provided at any other time during the year shall be valid for a period not to exceed the next scheduled certification established in these Rules.

3. **Refusal or termination of certification.**

- a. The Personnel Officer shall investigate any discrepancies between the payroll and the official roster and any other instances where the Personnel Officer finds the employment of a person may be in violation of the law and these Rules.
- b. In any case where the Personnel Officer finds satisfactory evidence that the employment of a person is in violation of law and these Rules, or the Personnel Officer finds satisfactory evidence of intent to evade the provisions of law or these Rules in regard to the employment of any person, the Personnel Officer shall refuse certification of the person and terminate any certification of the person previously made and then in force.
- c. Any refusal, termination, or revocation of a certification of any person shall be communicated in writing to the appropriate fiscal or disbursing officer.

RULE 23

CLASSIFICATION PLAN

1. **Definitions Used in Position Classification.** For the purpose of this rule the following definitions shall apply:

- a. "**Class**" means one or more positions sufficiently similar with respect to duties and responsibilities to be designated by a single descriptive title and treated as a unit for the purpose of recruiting, examinations, salary, and administering other personnel functions.
- b. "**Class title**" means the designation given under these rules to a class and to each position allocated to such class.
- c. "**Job Classification Specification**" means a formal written statement of the class which defines the general character and scope of the duties and responsibilities of positions in the class, lists typical work activities, enumerates knowledge, skills, abilities and personal characteristics required for successful full performance of the work, states required minimum qualifications, and indicates any special requirements of the class.

- d. **"Allocation"** means the assignment of a position to an appropriate class as determined by the duties, responsibilities and minimum qualification requirements of the position.
- e. **"Reclassification"** means the reallocation of a position from one class to another because of a permanent and material change of the duties of that position.
- f. **"Appointing Authority"** means the person, body or authority authorized to make appointments within a department or municipality.

2. **The Personnel Officer's Duties and Responsibilities for Position Classification:**

- a. The Personnel Officer shall classify and reclassify all positions in the civil service of all municipalities under its jurisdiction.
- b. The Personnel Officer shall prepare and maintain job classification specifications for each class of positions in the competitive, non-competitive and labor jurisdictional classes and establish appropriate minimum qualifications for each class.
- c. The Personnel Officer shall investigate all matters affecting the classification and reclassification of all positions and from time to time review the duties, responsibilities and qualification requirements of all positions under its jurisdiction and to make revisions in the classification of positions.

3. **Classification of Vacant Positions.** When a position has or is about to become vacant, the appointing authority shall file a detailed description of the duties and responsibilities of the position and a statement of suggested minimum entrance qualifications for the position with the Personnel Officer. After an analysis of the detailed description of duties and responsibilities, the Personnel Officer shall allocate the position to an appropriate class, or, if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications. The Personnel Officer may, with certain position vacancies it deems appropriate, accept written verification from the appointing authority that the duties and responsibilities of certain positions have remained unchanged from the last review by the Personnel Officer.

4. **Classification of New Positions.** When a new position is to be created, the appointing officer shall file a detailed description of the duties and responsibilities of the position and a statement of suggested minimum entrance qualifications for the position with the Personnel Officer, prior to creating the position. After an analysis of the detailed description of the duties and responsibilities, the Personnel Officer shall allocate the position to an appropriate class, or if no appropriate class exists, shall create a new class and prepare a job classification specification for such new class including a statement of appropriate minimum qualifications.

5. **Reclassification of Positions.** Either:

a. The Personnel Officer may, upon his/her own initiative, review the duties and responsibilities and qualification requirements of any position under his/her jurisdiction. Appointing authorities and employees in positions under review shall be required to complete a detailed description of the duties and responsibilities of the positions and provide such other information as determined necessary by the Personnel Officer. After an analysis of the detailed description of the duties and responsibilities, the Personnel Officer shall allocate the position to an appropriate class or, if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications; or

b. Whenever a permanent and material change is made in the duties and responsibilities of any position, the appointing authority shall file a detailed description of the duties and responsibilities of the position with the Personnel Officer. After an analysis of the duties and responsibilities of the position, the Personnel Officer shall allocate the position to an appropriate class or, if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications; or

c. Any employee in the classified service may apply to the Personnel Officer for a position reclassification. Such application shall include a detailed description of the duties and responsibilities of the position since the last determination with respect to its classification. After an analysis of the duties and responsibilities of the position, the Personnel Officer shall allocate the position to an appropriate class or, if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications.

6. **Notice and Appeals.** The Personnel Officer shall give reasonable notice of any proposal or application for a change in classification to the appointing officer and to the employee or employees affected thereby. Any person desiring to submit facts orally or in writing in connection with the reclassification of any position shall be afforded reasonable opportunity to do so. The Personnel Officer shall then determine the proper allocation of the position. No employee, either by classification or reclassification, change of title or otherwise shall be promoted, demoted, transferred, suspended or reinstated except in accordance with the provisions of the Civil Service Law and these rules.

RULE 24

PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION CONCERNING POLITICAL AFFILIATION

No question in any examination or application or other proceeding by the Personnel Officer or his/her examiners shall be so framed as to elicit information concerning, nor shall any other attempt be made to ascertain the political opinions or affiliations of any applicant, competitor or eligible, and all disclosures thereof shall be discountenanced by the Personnel Officer and his/her examiners. No discrimination shall be exercised, threatened or promised against or in favor of any applicant, competitor or eligible because of his political opinions or affiliation.

RULE 25

LAYOFF

Layoff of competitive class employees.

1. **Definitions.** For the purpose of this Rule the following terms shall mean:
 - (a) ***Direct line of promotion*** shall be strictly construed in that in order to be considered as direct line all titles must have the same generic root.
 - (b) ***Next lower occupied title*** shall mean the title in direct line of promotion immediately below the title from which the incumbent is suspended or demoted, unless no one is serving in that title in that layoff unit, in which case it shall be the closest lower title in direct line of promotion in that layoff unit in which one or more persons do serve.
 - (c) ***Layoff unit*** shall mean each department of a County, City, Town, Village, each School District and each special district. Authorities and community colleges shall be deemed to be separate civil divisions.
 - (d) ***Satisfactory service*** shall mean service by an employee during which he did not receive an "Unsatisfactory" performance rating and was not found guilty of misconduct or incompetency pursuant to Section 75 of the Civil Service Law which resulted in the imposition of any of the following penalties upon such employee:

- (i) dismissal from the service, or
 - (ii) suspension without pay for a period exceeding one month, or
 - (iii) demotion in grade and title.
- (e) (i) ***Permanent Service*** shall start on that date of the incumbent's original appointment on a permanent basis in the classified service for incumbents other than veterans¹ and sworn police officers. Permanent service for veterans and sworn police officers is set forth below.
- (a) Disabled veterans: Permanent service starts 60 months earlier than the date of the incumbent's original appointment on a permanent basis in the classified service.
 - (b) Non-disabled veterans: Permanent service starts 30 months earlier than the date of the incumbent's original appointment on a permanent basis in the classified service.
 - (c) Sworn police officers:
 - (i) ***Non-veterans***: Permanent service starts on the date of appointment to the officer's current title and/or grade in the service of the governmental jurisdiction in which the layoff occurs. If, however the officer transferred to the governmental jurisdiction through a transfer of function from a different agency, then permanent service starts on the date of appointment with the transferring agency to the officer's current title and/or grade.
 - (ii) ***Disabled veterans***: If the sworn officer is a disabled veteran, the date of permanent service will start 60 months earlier than the date referenced in (c)(i) above.
 - (iii) ***Non-disabled veterans***: If the sworn officer is a non-disabled veteran, the date of permanent service will start 30 months earlier than the date referenced in (c)(i) above.
 - (ii) **Reinstatement or reappointment.** A resignation followed by a reinstatement or reappointment more than one year subsequent to the resignation constitutes a break in service. The original appointment date is to be determined from the date of reemployment, the prior service would not count.
 - (iii) **Temporary or provisional service.** Temporary or provisional service preceding the original permanent appointment does not count. However, temporary or provisional employment immediately preceded and followed

¹ For purposes of the rule, the definition of what constitutes a veteran or disabled veteran is contained in Section 85 of the Civil Service Law.

by permanent classified service employment does not interrupt continuous service.

- (iv) **Transfer.** The permanent service of any employee who was transferred from another civil division shall start on the date of his original permanent appointment in the classified service in the other civil division.
- (v) **Covered-in employees.** If an employee was covered-in to a classified position upon acquisition by a civil division of an agency in which he was employed, his seniority begins on the effective date of the cover-in. As between that employee and others covered-in on the same date, they shall have the seniority held by them as among themselves in the agency before the cover-in.

2. **Suspension.**

- (a) **Persons potentially affected by layoff.** When an occupied position in the competitive class is abolished, suspension is to be made from among those employees holding the same title in the same layoff unit as the abolished position.
- (b) **Order of suspension.** Among permanent employees, the order of suspension is the inverse of the order of their original permanent appointments in the classified service. See above definition of permanent service for veterans and disabled veterans. An exception to this rule is that the blind have absolute retention rights, but only in their job status.
- (c) **Blind persons.** A blind person may not back-date his permanent service if he also happens to be either a veteran or a disabled veteran.
- (d) **Definition of blind person.** A person is considered blind if he is so certified by the Commission for the Visually handicapped of the New York State Social Services Department.
- (e) **Order of displacement - persons laid off at same time.** When two or more permanent incumbents of positions in a specified title are suspended, demoted or displaced at the same time, the order in which they shall be entitled to displace shall be determined by their respective retention standing, with those having the greater retention standing entitled to displace first.
- (f) **Persons appointed on the same date.** When several employees were originally appointed on a permanent basis on the same day, their retention rights shall be determined by their rank on the eligible list from which they were appointed; that person having the highest rank having greater retention rights over those having lower ranks.

- (g) **Temporary, provisional and contingent-permanent employees.** All temporary, provisional and contingent permanent employees occupying these positions must be let go before any permanent employee is suspended from such positions.
- (h) **Probationary employees.** Probationary employees occupying such positions in the same title, must also be suspended before any permanent employee in the layoff unit in that title who has completed his probationary period. Probationary employees do, however, have superior retention rights to those of contingent permanent, temporary and provisional employees.
- (i) **Probationary employees - order of suspension.** The order of suspension among probationary employees shall follow the same principles as that among permanent employees.

3. **Vertical Bumping.**

- (a) **Definition.** Vertical bumping occurs when an employee in a specific title to which there is a direct line of promotion, who is himself suspended or displaced, displaces an employee in the next lower occupied title in direct line of promotion in the same layoff unit having the least seniority if the employee who seeks to displace has greater retention standing.
- (b) **Order of displacement.** Where the layoff involves more than one position in a title, the order of displacement will be the inverse of the order of suspension. That is, the most senior of the suspended employees will be the first to displace. This shall apply to both vertical bumping and retreat.
- (c) **Refusal to bump.** If an employee refuses to displace a junior incumbent he must be laid off. This, however, does not protect the junior incumbent from being compared in retention standing with other incumbents if other positions at the higher lever are being abolished.
- (d) **Occupied positions.** When a next lower title has been occupied by means of displacement regardless of when the displacement into the title has occurred, it is considered to be occupied for further displacement purposes; however, a next lower title which has all of its positions abolished at the same time as positions are abolished at the higher level cannot be considered as occupied. A title which is occupied by an incumbent, temporary, provisional, contingent permanent, probationary or permanent is considered occupied for the purposes of this section.

4. **Retreat.**

- (a) **When it may occur.** Retreat occurs when, and only when, there is no lower occupied position in direct line of promotion at any level.

- (b) **Procedure.** An employee may retreat by displacing the incumbent with the least retention right who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in the title from which he is currently suspended or displaced. Retreat may only occur where the position in the title formerly held by the displacing incumbent is occupied in the competitive class, in the same layoff unit, and at a lower salary grade; the service of the displacing incumbent while in the former title must have been satisfactory, and the junior incumbent must have less retention standing than the displacing incumbent.
 - (c) **Retreat rights not limited to layoff unit.** The service of the displacing incumbent in the title to which he is retreating need not have been in the same layoff unit as the one from which he is displaced.
 - (d) **Titles to which an employee may retreat.** An employee may also displace by retreat to a position in a title he last served on a permanent basis although he had intervening service in other titles as long as his service in each of the intervening titles was on other than a permanent basis. He may also displace by retreat to a position which does not count in the computation of his continuous service.
 - (e) **Change of title.** Where a title change has been effected to better describe the duties of a position but the duties have not substantially changed since the suspended employee last served in that title, the new title will for retreat purposes be deemed to be the former title.
5. **Refusal to accept appointment.** An employee who refuses to accept an appointment afforded by displacement for whatever reason waives all rights regarding the displacement, however, this employee's name will be entered on an appropriate preferred list.
6. **Preferred Lists.** Preferred list standing for competitive class employees on and after October 1, 1972 shall be as follows:
- (a) **Status on list based upon layoff before October 1, 1972.** On and after October 1, 1972 those employees whose positions were abolished prior to that date and who therefore had their standing on the preferred list determined by the date of their original appointment on a permanent basis in the competitive class shall retain among themselves such preferred list standing including the preferences to which they were entitled as blind, disabled veterans, and non-disabled veterans.
 - (b) **Blind employees.** Blind employees whose positions are abolished on or after October 1, 1972 shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service, whether or not they are also disabled veterans or non-disabled veterans; provided however,

that the blind shall be granted absolute preference on the preferred list over all other employees except those disabled veterans and blind employees whose positions were abolished prior to October 1, 1972 with whose names theirs shall be interfiled.

- (c) **Disabled veterans.** Disabled veterans whose positions were abolished on or after October 1, 1972 shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service, provided however, that the date of such original appointment shall be deemed to be 60 months earlier than the actual date, determined in accordance with Section 30 of the General Construction Law.
 - (d) **Non-disabled veterans.** Non-disabled veterans whose positions are abolished on or after October 1, 1972 shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service; provided however, that the date of such original appointment shall be deemed to be 30 months earlier than the actual date, determined in accordance with Section 30 of the General Construction Law.
 - (e) **Non-veterans.** Non-veterans whose positions are abolished on or after October 1, 1972 shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service.
 - (f) **Interfiling of names.** The names of all persons encompassed by paragraphs (c), (d) and (e) above whose positions are abolished on or after October 1, 1972 shall be interfiled on the preferred list with the names of all non-veterans whose positions were abolished prior to October 1, 1972.
7. **Advance written commitments.** An appointing authority may take such steps as it may deem necessary in order to secure binding written commitments in advance of suspension, demotion or displacement from employees potentially affected by such suspension, demotion or displacement as to their willingness to accept reassignment or displacement.

APPENDIX A

EXEMPT POSITIONS

APPENDIX B

Non-Competitive Positions

APPENDIX C

Labor Positions

APPENDIX D

Unclassified Service

APPENDIX E

Emergency Defense Positions

APPENDIX A
EXEMPT CLASS

COUNTY SERVICE

Assistant Conflict Defenders (Full time) (4) (10/23/2018)
Assistant County Attorneys (2) (7/1/2009)
Assistant District Attorneys (6) (7/1/2009)
Assistant Public Defenders (Full-time) (8) (12/10/2015) (10/23/2018)
Chaplain
Confidential Secretary to the Conflict Defender (10/23/2018)
Confidential Secretary (Public Defender's office)
Conflict Defender (10/23/2018)
County Administrator
County Attorney
County Historian
Criminal Investigator*
Deputy Administrator to Health Commissioner*
Deputy Commissioner of Social Services*
Deputy County Clerk
Deputy County Clerk*
Deputy County Treasurer
Deputy Director of Community Mental Health Services (1 Position) (7/13/2010)
Deputy Highway Superintendent (3 positions) (12/22/2000, 7/30/2007, 5/15/2012)
Emergency Management Services Director (11/1/1995)
Executive Director, Livingston County Water and Sewer Authority (9/7/2017)
Public Defender, Full-Time (12/22/2000)
Second Deputy County Clerk (06/21/2002)
Secretary to the Commissioner of Social Services
Secretary to the County Administrator
Secretary to the County Attorney
Secretary to the District Attorney
Secretary to the Sheriff
Senior Social Services Attorney (1 Position) (9/7/2017)
Soil & Water District Secretary (7/31/1998)
The Budget Officer
Traffic Safety Board Executive Secretary (3/20/1997)
Undersheriff

* Part-time

[Dates used throughout appendices represent the date of public hearing, not approval by State Commission.]

APPENDIX A cont'd.
EXEMPT CLASS cont'd.

TOWN SERVICE

Clerk to each Town Justice
Deputy Highway Superintendent
Deputy Town Clerk
Deputy Town Supervisor
Dog Enumerator
Historian
Secretary to the Supervisor
Town Attorney

IN THE TOWN OF GENESEO

Budget Officer

VILLAGE SERVICE

Associate Village Justice (10/23/2018)
Clerk to the Village Justice
Deputy Village Clerk
Deputy Village Clerk-Treasurer
Historian
Village Attorney
Village Treasurer

IN THE VILLAGE OF MT. MORRIS

Student Aide*

IN THE VILLAGE OF AVON

Village Administrator

SCHOOL DISTRICTS

Census Takers
Clerk-Board of Cooperative Educational Services
School Attorney
School District Clerk
School District Treasurer
School Tax Collector
Secretary to Superintendent of Schools
Treasurer-Board of Cooperative Educational Services

*Part-time

APPENDIX B
NON-COMPETITIVE CLASS

IN ALL CIVIL DIVISIONS

Account Clerks, Part-time
Automotive Mechanic Helpers
Automotive Mechanics
Building Maintenance Mechanics
Building Maintenance Person(s)
Carpenters
Clerks, Part-time
Couriers (3/20/1997)
Electricians
Groundskeepers
Heavy Motor Equipment Operators
Janitors, Part-time
Motor Equipment Operators
Painters
Recreation Directors, Part-time
Recreation Leaders, Part-time
Senior Automotive Mechanics (10/23/2018)
Sewage Plant Maintenance Person(s)
Stenographers, Part-time
Typewriter Repairers
Typists, Part-time
Watchmen
Working Forepersons (7/31/1998)

COUNTY SERVICE

Activities Aides, Part-time
Activities Aides
Administrative Assistant to the County Administrator [PIC] (1/25/1996)
Administrator-County Sewer District, Part-time
Assistant Conflict Defenders, PT (12/20/2022)
Assistant Dog Control Officer
Assistant Dog Control Officer(s), Part-time (7/24/2008)
Assistant Public Defender(s), Part-time
Attorney-Self Insurance Plan, Part-time
Bakers
Building and Grounds Working Forepersons (1/25/1996)(7/31/1998)
Caseworker Trainees – HELP Program (8/8/2023) – until 9/24/2024 (PAR-03-23)
Charge Nurses
Charge Nurse (Licensed Practical Nurse)

“PIC” is Policy Influencing, Confidential.

APPENDIX B -- cont'd.
NON-COMPETITIVE CLASS -- cont'd.

COUNTY SERVICE CONT.

Chauffeur
Chief Deputy (Professional Standards) (Confidential) (12/20/2022)
Civilian Dispatchers – HELP Program (8/8/2023) – until 9/24/2024 (PAR-03-23)
Civilian Dispatchers, Part-time (8/29/1996)
Commissioner of Social Services
Cook-Managers
Cooks
Cooks (Corrections) (7/1/2009)
Corrections Officers, Part-time (8/29/1996)
County Auditor [PIC] (1/25/1996)
Court Attendants (12/16/1997)
Court Security Officers, Part-time (8/29/1996)
Dental Consultant, Part-time
Deputy County Administrators [PIC] (2) (10/23/2018)
Deputy Director of Veterans Services (9/7/2017)
Deputy Director of Public Health [PIC] (9/7/2017)
Deputy Fire Coordinators, Part-time
Deputy Health Commissioner, Part-time
Deputy Historian, Part-time
Deputy Sheriff/Major (Corrections) [PIC] (1/25/1996)
Deputy Sheriffs/Road Patrol, Part-time (8/29/1996)
Dietitians, Part-time
Director of Information & Technology Services, PIC (9/10/1999)
Director of Long Term Care [PIC] (1 position), (9/7/2017)
Director of Real Property Tax Services 1
Director of Veterans Service Agency
Economic Developer
Emergency Communications Director, [PIC] (1 position), (9/7/2017)
Employment & Training Activities Supervisor, Seasonal
Exam Monitor, Part-time (3/20/1997)
Executive Secretary-Self Insurance Plan, Part-time
Financial Investigator, Part-time
Grants and Public Information Coordinator [PIC] (8/30/2016)
Hairdressers
Health Commissioner, Part-time
Home Health Aides
Housekeepers
Jail Physicians, Part-time
Licensed Practical Nurses
Medical Consultant, Part-time
Medical Director, Part-time
Mental Health Clinical Therapists – HELP Program (8/8/2023) – until 9/24/2024 (PAR-03-23)
Mental Health Licensed Therapists – HELP Program (8/8/2023) – until 9/24/2024 (PAR-03-23)
Mobile Work Crew Supervisor (8/29/1996)
Motor Equipment Operators I

APPENDIX B -- cont'd.
NON-COMPETITIVE CLASS -- cont'd.

COUNTY SERVICE CONT.

Motor Equipment Operators II
Motor Equipment Operators III
Nurse Practitioner, Part-time
Nursing Assistant – Transports (12/22/2000)
Nursing Assistants
Nutrition Aides, Part-time (12/22/2000)
Occupational Therapist, Part-time
Office For The Aging Director [PIC] (12/16/1997)
Outreach Workers, Part-time
Park Maintenance Persons (7/31/1998)
Personal Care Aides (12/20/2022)
Personnel Officer
Pharmacist, Part-time
Physical Therapist, Part-time
Physicians, Part-time
Plumbers
Police Services Commander, (Policy Influencing/Confidential) (2/25/2015)
Public Defender, Part-time
Public Health Nurses, Part-time
Radiological Technologist, Part-time
Registered Professional Nurses
Road Maintenance Workers
Seamstresses
Secretary to the Public Health Director, (Confidential) (12/10/2015)
Senior Building Maintenance Mechanic
Senior Cleaner
Senior Nutrition Program Site Managers, Part-time (11/25/1997)
Social Services Attorneys, Part-time
Social Welfare Examiners – HELP Program (8/8/2023) – until 9/24/2024 (PAR-03-23)
Special Deputy Highway Superintendent, Part-time
Stop DWI Coordinator [PIC] (5/20/2015)
Summer Youth Counselors (Seasonal)
Training & Professional Development Coordinator (12/20/2022)
Welder Fabricator
W.I.C. Program Coordinator, Part-time
W.I.C. Program Nutritionist, Part-time
Winterization Forepersons (7/31/1998)
Youth Bureau Director

Civil Service Law Section 55-a designated positions in titles where the incumbent is certified either by the Commission for the Blind and Visually Handicapped in the State Department of Social Services as being physically disabled by blindness or by the Office of Vocational and Educational Services for Individuals with Disabilities in the State Education Department as otherwise physically or mentally disabled.

APPENDIX B -- cont'd.
NON-COMPETITIVE CLASS -- cont'd.

TOWN SERVICE

Assessor (6/21/2007)
Assistant Dog Control Officers, Part-time
Building Inspectors III, Part-time
Cemetery Caretakers
Code Enforcement Officers, Part-time (7/1/2009)
Constables, Part-time
Deputy Registrars of Vital Statistics, Part-time
Dog Control Officer, Part-time
Library Technicians, Part-time
Municipal Bingo Inspector, Part-time
Parking Meter Attendants, Part-time
Recreation Directors, Part-time
Recreation Directors, Seasonal
Recreation Leaders, Part-time
Recreation Leaders, Seasonal
Registrars of Vital Statistics, Part-time
Water Maintenance Workers
Water Treatment Plant Operators, Part-time
Water Treatment Plant Operator Trainees, Part-time
Zoning Inspectors, Part-time

IN THE TOWN/VILLAGE OF NUNDA

Police Officers, Part-time (3/24/2003)

VILLAGE SERVICE

Arson Consultant, Part-time
Assessor (6/21/2007)
Assistant Dog Control Officers, Part-time
Building Inspectors III, Part-time
Code Enforcement Officers, Part-time (7/1/2009)
Deputy Registrars of Vital Statistics, Part-time
Deputy Street Superintendents, Part-time
Dog Control Officer, Part-time
Fire-Police Dispatchers, Part-time
Meter Readers, Part-time
Municipal Bingo Inspectors, Part-time
Parking Meter Attendants, Part-time
Police Chiefs, Part-time
Police Officers, Part-time
Recreation Directors, Part-time
Recreation Directors, Seasonal
Recreation Leaders, Part-time

APPENDIX B -- cont'd.
NON-COMPETITIVE CLASS -- cont'd.

VILLAGE SERVICE cont'd.

Recreation Leaders, Seasonal
Registrars of Vital Statistics, Part-time
School Crossing Guards, Part-time
Village Engineers, Part-time
Village Street Superintendent, Part-time
Water Maintenance Supervisors, Part-time
Water Maintenance Workers
Water/Wastewater Maintenance Person(s) (7/30/2007)
Zoning Inspectors, Part-time

IN THE VILLAGE OF AVON

Construction Project Coordinator (7/31/1998)

IN THE VILLAGE OF GENESEO

Deputy Street Superintendent

IN THE VILLAGE OF MOUNT MORRIS

Fire Department Chief (PT)*(6/27/97)

BOCES SCHOOL DISTRICT SERVICE

Buildings & Grounds Working Forepersons (2/14/2005)
Chief Human Resource Officer (BOCES), [PIC] (7/30/2007)
Director of Safety, Security and Operations, [PIC] (9/7/2017)
Exam Monitors (5/15/2012)
Labor Relations Coordinator (BOCES) [PIC] (1/25/1996)
Labor Relations Coordinator – BOCES (Second position) [PIC] (7/31/1998)
Health & Safety Trainers (3 positions until next vacated) (7/1/2009)
Personal Care Aides (School) (9/7/2017)

SCHOOL DISTRICTS

Bakers
Buildings and Grounds Working Foreperson(s) (7/30/2007)
Bus Drivers-School
Caregiver (BOCES Day Care)
Child Care Aide(s) (7/30/2007)
Cook-Managers
Cooks
Custodians, Part-time
Dental Hygienists, Part-time
Library Aide, Part-time
Licensed Practical Nurses (School) (7/1/2009)
Lifeguards (3/20/1997)
Public Information Assistant, Part-time
Registered Professional Nurses (School)

APPENDIX B -- cont'd.
NON-COMPETITIVE CLASS -- cont'd

SCHOOL DISTRICTS contd.

School Physicians, Part-time
Senior Bus Drivers
Senior Cleaners (School) (9/30/2019)
Student Interpreter I
Student Interpreter II
Student Interpreter III
Student Interpreter Trainee
Supervisors of Attendance, Part-time
Teacher Aides
Typewriter Repairers

LIVINGSTON COUNTY WATER AND SEWER AUTHORITY

Water/Wastewater Maintenance Persons (9/30/2019)

APPENDIX C
LABOR CLASS

IN ALL CIVIL DIVISIONS

Cleaners
Clinical Aides
Custodial Workers
Duplicating Services Assistant
Fire House Caretakers
Food Service Helpers
Laborers
Laundry workers
Pages
Recreation Aides, Part-time
Sanitation Workers
School Monitors
Winterization Aides

COUNTY SERVICE

Aging Services Aides (12/16/1997)
Certified Nursing Assistant Trainees (12/20/2022)
Neighborhood Assistants (12/19/2005)
Personal Care Assistants (7/1/2009)
Summer Youth Workers (2/14/2005)

TOWN SERVICE

Recycling Attendant(s) (7/30/2007)

SCHOOL DISTRICTS

School Bus Attendants (7/1/2009)

APPENDIX D
UNCLASSIFIED SERVICE

COUNTY SERVICE

All Members of Board of Managers of the Conesus Lake County Sewer district
All Officers and Employees of the Board of Elections
Clerk-Board of Supervisors
Confidential Secretary to the Clerk (9/12/1999)
Coroners
County Clerk
County Highway Superintendent (12/22/2001)
County Treasurer
Deputy Clerk - Board of Supervisors
Director of Community Mental Health Services (7/30/2007)
District Attorney
Public Health Director (6/12/2013)
Sheriff

TOWN SERVICE

In all Offices and Departments Where the Following Positions Exist:

All Members of the Planning Board
All Members of the Youth Recreation Board
All Members of the Board of Fire Commissioners
All Members of the Zoning Board
Councilmen
Custodian of Voting Machines
Justices of the Peace
Supervisor
Tax Collector
Town Clerk
Town Superintendent of Highways

VILLAGE SERVICE

In all Offices and Departments Where the Following Positions Exist:

All Members of Zoning Board of appeals
All Members of the Youth Recreation Board
All Members of the Board of Fire Commissioners
All Members of the Planning Board
Mayor
Police Justice
Trustees
Village Clerks
Village Clerk and Treasurer

APPENDIX D -- cont'd.
UNCLASSIFIED SERVICE -- cont'd.

IN THE VILLAGE OF CALEDONIA

President of the Water Board

SCHOOL DISTRICT

All positions as certified by the Commissioner of Education of the State of New York in accordance with Section 35(g) of the Civil Service Law.

APPENDIX E
EMERGENCY DEFENSE

TOWN SERVICE

Civil Defense Administrator, Part-time

VILLAGE SERVICE

Civil Defense Administrator, Part-time