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# **GENESEE COUNTY**

## **CIVIL SERVICE**



# **RULES**

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# **REGULATIONS**

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Rules for the Classified Service  
of

GENESEE COUNTY

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**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 Genesee 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 Genesee County as well as the towns, villages, school districts and special districts therein. These rules may be amended by the Human Resources Director after a public hearing, subject to the approval of the State Civil Service Commission.

REVISED:   December 1, 1975  
              August 26, 1980  
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              November 17, 2010  
              May 20, 2020  
              August 31, 2022  
              November 20, 2023

## RULE I

### 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. "Civil Division" means each county, town, city, village, school district, community college, public authority, or special district.
2. "Eligible List" means an official record established and maintained by the Human Resources Director's Office 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.
3. "Employee" means the incumbent of a position, or multiple positions where authorized, who has been appointed in the accordance with the Civil Service Law and these rules.
4. "Employment in Multiple Positions" means the employment of an individual in more than one position, where authorized by the Genesee County Human Resources Director, in one or more civil divisions. Appointments to each position must be made in accordance with the Civil Service Law, Rules and applicable policies.
5. "Employment on a Part-Time Basis" means any employment in a position, or combination of positions, in a civil division, in which an individual works fifty percent or less of the time prescribed as the standard workweek by the governing body or other appropriate authority or where the employee earns not more than one-half of the rate assigned to the position if the position has been allocated to a salary schedule. All positions designated in the Appendices of these rules as non-competitive due to their part-time nature must be filled on a competitive basis when the regularly assigned work schedule or expected earnings will exceed the limitations herein.
6. "Human Resources Director" means the Human Resources Director of the County of Genesee.
7. "Position" means an aggregation of duties to be performed and responsibilities to be exercised by one employee as described in the job classification specification or duties statement.
8. "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.
9. "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.

## RULE II

### **COMPETITIVE CLASS**

The competitive class shall include all positions in the classified service not specifically listed in these rules as being in the exempt class, labor class and the non-competitive class.

## RULE III

### **EXEMPT CLASS**

Positions approved by the State Civil Service Commission for placement in the exempt class pursuant to Section 41 of the Civil Service Law shall be listed in Appendix A of these rules.

## RULE IV

### **NON-COMPETITIVE CLASS**

#### 1. Non-Competitive Positions; Approval and Designation

Positions approved by the State Civil Service Commission pursuant to Section 42 of the Civil Service Law for placement in the non-competitive class shall be listed in Appendix B of these rules. The municipal Human Resources Director shall designate titles in Appendix B that involve confidentiality or require the performance of functions influencing policy for the purposes of excluding such positions from the statutory provisions on removal and disciplinary proceedings.

#### 2. Nomination for Non-Competitive Appointment

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 Human Resources Director. A nomination for such an appointment shall state the qualifications of the nominee and shall be filed, prior to any appointment, by the appointing authority with the Human Resources Director. Such appointment shall become effective only after approval by the Human Resources Director.



## RULE V

### **LABOR CLASS**

#### 1. Approval of Labor Class Positions

Positions approved by the State Civil Service Commission pursuant to Section 43 of the Civil Service Law for placement in the labor class shall be listed in Appendix C of these rules.

#### 2. Filling of a Labor Class Position

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. The Human Resources Director may require applicants for employment in the labor class to qualify in such examinations of their fitness for employment as may be deemed practicable.

## RULE VI

### **UNCLASSIFIED SERVICE**

Positions approved by the State Civil Service Commission pursuant to Section 35 of the Civil Service Law for placement in the unclassified service shall be listed in Appendix D of these rules.

## RULE VII

### **RECRUITMENT OF PERSONNEL**

#### 1. Residence Requirements for Municipal Positions

a. An applicant must, at the time of examination and for at least two (2) months immediately prior thereto, be 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. Residence requirements may be suspended or reduced by the Human Resources Director in cases where recruitment difficulty makes such requirements disadvantageous to the public interest.

## RULE VII- RECRUITMENT OF PERSONNEL-contd.

b. When preference in certification is given to residents of a municipality pursuant to subdivision 4-a of Section 23 of the Civil Service Law, an eligible must have been a resident of such municipality for at least two months (2) prior to the date of certification in order to be included in a certification as a resident of such municipality and must be a resident of such municipality at the time of appointment.

### 2. Announcements of Examinations

The public announcement of an open-competitive examination shall specify the application fee, if any, the title, the duties of the position, the minimum qualifications required, the salary or salary range if known, the issue date, the final date for filing applications, the subjects or scope of the examination and the relative weights thereof, application fee(s) and waivers, post offer of employment medical requirements, special testing requirements and religious observance arrangements and, if known, the date and place of the examination. Public notice of open-competitive examinations shall be made at least twenty-five (25) days before the date of the examination and must be conspicuously posted in a public place for fifteen (15) days. The last day for filing applications shall be not less than ten (10) days before the date of the examination.

## RULE VIII

### APPLICATIONS

#### 1. Receipt and Disposition of Applications

a. Applications of candidates for positions in the classified service must be submitted to the Human Resources Director on the form and in the manner prescribed by the Human Resources Director.

b. The burden of establishing qualifications to the satisfaction of the Human Resources Director shall be upon the applicant.

c. The Human Resources Director shall notify applicants of the disposition of their applications. Applicants for competitive examination shall be given notice of their approval or disapproval at least seven days before the examination.

#### 2. Release of Application Information

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

## RULE IX

### DISQUALIFICATION

#### 1. Notification of Disqualification

An applicant who is disqualified for an examination or appointment shall be notified of the reasons for such disqualification and afforded an opportunity to submit facts in opposition to such disqualification.

#### 2. Verification of Qualifications

Any applicant who refuses to permit the Human Resources Director to investigate matters necessary for the verification of his/her qualifications or who otherwise hampers, impedes or fails to cooperate with the Human Resources Director in such investigation shall be disqualified for examination, or, after examination, for certification and appointment.

#### 3. Disrespect for Processes of Law

A record of disrespect for the requirements and processes of law may be grounds for disqualification for examination or, after examination, for certification and appointment.

## RULE X

### EXAMINATIONS

#### 1. Examinations Prepared and Rated by the New York State Civil Service Department

a. For examinations prepared and rated by the State Civil Service Department, the provisions of the rules and regulations of the State Civil Service Commission and Department shall govern the rating of examinations, the review of examination papers by candidates and the filing of appeals.

b. The State Civil Service Commission shall have sole and exclusive authority to correct any errors in rating upon appeal or otherwise.

#### 2. Examinations Prepared and/or Rated by the Municipal Civil Service Human Resources Director

a. The Human Resources Director shall adopt a system to conceal the identity of the candidates' papers in a written examination until such written examination has been rated.

## RULE X- EXAMINATIONS-contd.

b. Rating keys shall be prepared for each examination held. Such keys shall be a permanent part of the record of each examination. The marking of an examination shall be made on the scale of 100, with 70 the passing score. The Human Resources Director may, after the announcement of an examination is made, subdivide 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 arrangements shall be given in the instructions of the written examination.

c. Applications and examination records and papers of candidates shall be preserved in accordance with the policies of the State Commissioner of Education and the State Civil Service Commission. Whenever an oral examination shall be prescribed as part of an examination, every effort shall be made to ensure that a stenographic or recording device record of all the questions and answers be made a part of the examination records.

d. Every candidate in an examination shall be notified in writing of his/her final rating. Except for continuous recruitment examination, he/she shall also, if successful, be notified of his/her relative position on any eligible list established as a result of the examination.

e. Except for candidates in continuous recruitment examinations, any candidate receiving such notice may inspect his/her examination papers in the office of the Human Resources Director and in the presence of a designated representative of the Human Resources Director, provided he/she makes his/her request for such inspection, in writing, within ten (10) days of the date of the postmark of such notice. The examination papers of a candidate shall be exhibited only to the candidate except that a candidate may bring a consultant to review the record of an oral examination. The consultant must be approved by the Human Resources Director prior to the review and may not be an individual who was in any way involved in the preparation, conduct, or administration of the examination.

f. A candidate who wishes to appeal to the Human Resources Director from his/her rating in one, or more, or all of the subjects of an examination must submit such appeal in writing within twenty (20) days after the earliest date on which his/her examination papers were made available for his/her 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 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.

g. There shall be no reviews of examinations conducted on a continuous recruitment basis other than for a computational check of the candidate's answers against the key answers; nor shall there be reviews of practical or performance examinations.

## RULE X- EXAMINATIONS-contd.

### 3. Examinations Generally

a. The Human Resources Director may at any time during the life of an eligible list, resulting from an examination except as provided in 1.b., correct any clerical or computational errors in the ratings of candidates who compete in the examination.

b. Any changes in an eligible list pursuant to this rule shall not affect the status of any person previously appointed from such eligible list.

### 4. Examination Material Security

In order to prevent the unauthorized publication and dissemination of examination material, the following acts are prohibited except as authorized by the Human Resources Director.

a. No person shall copy, record or transcribe any examination question or answer; or remove from the examination room or possess outside the examination room, any question sheet, answer sheet or booklet, scrap papers, notes or any other papers or materials relating to such examination.

b. A candidate in an examination shall not at any time communicate with an examiner concerning the conduct or content of such examination; and shall not directly or indirectly communicate to any other person information concerning the content of such examination until completion of the testing of all candidates.

No examiner, proctor or other person charged with the supervision of a candidate or group of candidates during an examination shall have authority to waive the provisions of this subdivision. A person who is found by the Human Resources Director to have violated the provisions of this subdivision or any similar provision of the rules of any other civil service jurisdiction within the State of New York shall be disqualified from appointment to the position for which the examination is being held and may be disqualified from being a candidate for any civil service examination for a period of five (5) years.

## RULE XI

### ELIGIBLE LISTS

#### 1. Passing Grade and Ranking

Every candidate who attains a passing score 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/she was examined and his/her name shall be entered on the eligible list in the order of his/her final rating; but if two (2) or more eligibles receive the same final rating, they shall be ranked in accordance with such uniform, impartial procedure as prescribed by the Human Resources Director.

## RULE XI - ELIGIBLE LISTS-contd.

### 2. Eligible List Establishment

a. The date of the establishment of the eligible list shall be the date fixed by Human Resources Director resolution and shall be entered on the eligible list. The eligible list shall contain any additions of veteran's credits and, in the case of promotion examinations, seniority credits.

b. The duration of all eligible lists shall be fixed by the Human Resources Director resolution prior to the establishment of such lists, but shall not be less than one (1) nor more than four (4) 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 (4) years the Human Resources Director may, by resolution, prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four (4) years, provided that eligibles on such list are notified in writing of the extension of the eligible list.

### 3. Public Inspection of Eligible Lists

Eligible lists shall be open to public inspection at the office of the Human Resources Director. The names of persons who failed to receive a passing examination score shall not be disclosed to the public.

### 4. Eligible List Error Correction

The Human Resources Director shall have power in its discretion to correct any error and amend any eligible list where it appears that an error has been made.

### 5. Eligible List Revocation

The Human Resources Director 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 on the list. The reasons for such action shall be recorded in the Human Resources Department and reported to the State Civil Service Commission within thirty (30) days.

## RULE XII

### **CERTIFICATION FOR APPOINTMENT**

#### 1. Appropriate Eligible List Determination/Certification

The Human Resources Director 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 be included in such certification.

#### 2. Duration of Certification

A certification issued by the Human Resources Director to an appointing officer shall be valid for a period of thirty (30) 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. The Human Resources Director, for good cause shown, may extend a certification up to a maximum of sixty (60) days upon request of an appointing authority.

#### 3. Failure to Respond to a Canvass Inquiry

When an eligible is canvassed for appointment or is offered appointment in writing and fails to state his/her willingness to accept such appointment within seven (7) calendar days after the mailing of such canvass or offer, he/she may be considered ineligible when making selection for such particular appointment. When an eligible fails to respond to two (2) successive canvass letters, his/her name shall be restricted from further certification from the eligible list. Thereafter, the eligible may request that his/her name be restored to active status on such list, provided the list is still in existence. The eligible's name may be restored to active status on such list if the Human Resources Director in its discretion determines that the reasons for the previous non-response are satisfactory.

#### 4. Certification Declination

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) geographical location of employment; (c) temporary inability, physical or otherwise, which must be satisfactorily explained by the eligible in writing; (d) other reason deemed acceptable by the Human Resources Director. The Human Resources Director shall enter upon the eligible list the reasons for its action in such cases.

## RULE XII- CERTIFICATION FOR APPOINTMENT-contd.

### 5. Rule of Three

Except as otherwise provided in these rules, 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 final rating of the third highest ranking eligible on the list indicating willingness to accept such appointment. The term "ranking" as used in these rules refers to the order in which the names of eligibles appear on the eligible list.

### 6. Nomination to Fill Vacancy After Open-Competitive Examination

a. Whenever a vacancy exists in a position in the competitive class and an open-competitive examination duly advertised results in three (3) or fewer approved applicants for the examination, the appointing officer may nominate to the Human Resources Director one of the applicants who may be certified for appointment to fill the vacancy without further examination, provided that he/she has already qualified in an examination of equivalent character within the last four years from the date of nomination.

#### Appointment by Non-Competitive Examination

b. Whenever no more than two names appear on the open competitive eligible list for appointment to a position or upon the receipt of the results of an open competitive examination wherein no candidates passed the appropriate examination, the appointing officer may nominate a qualified individual for appointment, and such nominee, upon passing an examination appropriate to the duties and responsibilities of the position, may be appointed; or the Human Resources Director may designate the eligible list, if there be one, as a continuing eligible list in accordance with section 57 of the Civil Service Law, and insert therein the names is additional eligible as they are found qualified by examinations held at such intervals as may be prescribed.

### 7. Declination for Salary

a. Whenever one or more eligibles shall have declined any appointment offered because of salary and an eligible whose relative standing is lower on the list and who was reachable on the certification only because of the declination, shall have been appointed to the position, the salary of such appointee shall not be increased, except by a service or a class-wide increase, within a period of six (6) months after his/her appointment beyond that offered to the persons so declining.



## RULE XII- CERTIFICATION FOR APPOINTMENT-contd.

### 8. Restriction on Certification for Reclassified Position

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 the appointment or promotion from such list would require the layoff of a permanent employee; but, this provision shall not apply if the incumbent whose position was reclassified has, following such reclassification, either refused to take an examination for such reclassified position or twice failed to qualify for appointment, examination or promotion to such position.

9. Whenever a vacancy exists in a position in the competitive class and an open-competitive examination duly advertised results in three (3) 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 Human Resources Director 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 XIII

### **PROMOTIONS**

#### 1. Eligibility for Promotion

In order to be eligible to participate in a promotion examination or to be promoted a candidate must have been employed in a competitive class or non-competitive class position on a permanent basis in a lower grade, either in direct line of promotion or in a related or collateral line of promotion as determined by the Human Resources Director. The Human Resources Director shall determine the minimum period of such service eligibility to participate in a promotion examination, and may also prescribe a minimum period of such service as a qualification for promotion from the resulting eligible list.

#### 2. Promotion from the Non-Competitive Class

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.

## RULE XIII- PROMOTIONS-contd.

### 3. Successive Nominations for Non-Competitive Promotion

Any candidate who is nominated for non-competitive examination for promotion to a position and who fails to appear for such examination or 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 following competitive examination.

## RULE XIV

### **PROBATIONARY TERM**

#### 1. Probationary Term

a. 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 (8) nor more than fifty-two (52) weeks. Every appointment to a position of Deputy Sheriff, Police Officer, or Firefighter shall be for a probationary term of not less than eight (8) nor more than seventy-eight (78) weeks.

b. 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 (12) nor more than fifty-two (52) weeks. The probationary term for a Wastewater Treatment Plant Operator Trainee evolving into grade 3 or 3A Operators shall be no greater than seventy-eight (78) weeks.

c. Every permanent appointment from a promotion eligible list shall be for a probationary term of not less than eight (8) nor more than twenty-six (26) weeks. Upon written notice of the appointing authority the probationary period upon promotion may be waived and the appointee given a permanent appointment.

d. 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 Human Resources Director.

e. 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.

## RULE XIV- PROBATIONARY TERM-contd.

### 2. a. Transfers to Positions in the 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 weeks (8) nor more than fifty-two (52) 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.

### 2. b. Transfers to Positions Under Different Appointing Authorities in Different Civil Divisions

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 fifty-two (52) 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, completion of the maximum period of probation. The Human Resources Director shall advise the prospective transferee in writing prior to approval of the transfer that an eight (8) to fifty-two (52) 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.

### 2. 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 Human Resources Director.

### 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.

## RULE XIV - PROBATIONARY TERM-contd.

### 4. Absence During Probationary Term

Any periods of authorized or unauthorized absence aggregating up to 10 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 at minimum two (2) weeks 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 Human Resources Director in its discretion determines that the probationer should be given another 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 or provisional service rendered by such employee in the 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.

#### RULE XIV - PROBATIONARY TERM-contd.

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 75 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 (1) 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 (1) 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. Leave of Absence for Police Supervisors

Notwithstanding any other provision 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 (209-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 therefor, he/she shall be restored to such lower rank position.

## RULE XV

### **TRAINEE APPOINTMENTS**

1. The Civil Service Human Resources Director may require that permanent appointment or promotion 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 Human Resources Director. 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 as a trainee shall be subject to such probationary period as is prescribed in these rules. The employment of such person may be discontinued if his/her conduct, capacity or fitness is not satisfactory at any time between the minimum and maximum period of probationary term for traineeship. If the trainee fails, refuses to pursue, or does not continue such training or academic courses satisfactorily as may be required, his/her employment may be terminated at any time during the traineeship.

## RULE XVI

### **EFFECT OF NON-PERMANENT SERVICE ON STATUS OF EMPLOYEES**

#### 1. Effect of Temporary Appointment on Eligibility for Permanent Appointment

The acceptance by an eligible of a temporary appointment shall not affect his/her 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. Non-Permanent Appointment of Permanent Employee

a. When a permanent employee is given a provisional, temporary or contingent permanent appointment to a competitive class position in the same department or agency, the position thus vacated by him/her shall only be filled on a temporary or contingent permanent basis until the position is unencumbered by the permanent incumbent.

b. A provisional, temporary or contingent permanent appointee may return to his/her permanent position at any time by providing written notice to the appointing authority requesting to be returned to such permanent position. The appointing authority shall return such appointee to his/her permanent position within fifteen (15) days of receipt of such written notice.

RULE XVI - EFFECT OF NON-PERMANENT SERVICE ON STATUS OF  
EMPLOYEES-contd

3. Successive Provisional Appointment

a. No provisional employee who has refused to take an examination held for permanent appointment shall be given another provisional appointment in a position with the same title. No provisional employee who fails two (2) examinations for permanent appointment shall be eligible for provisional appointment in the same title under the same appointing authority. For the purposes of this rule, a failure to appear for an appropriate examination shall constitute a refusal to take an appropriate examination unless adequate reason for a failure to appear is determined by the Human Resources Director.

b. The term of provisional appointment shall end within the time period prescribed in subdivision three (3) of section sixty-five (65) of the Civil Service Law or upon the receipt of the results of an examination wherein no candidates passed the appropriate examination. A provisional appointee, who fails to qualify in an appropriate examination, may be authorized a second provisional appointment at the discretion of the appointing authority and the Human Resources Director if the eligible list contains less than three eligibles from which to make a permanent appointment to the position.

4. Contingent Permanent Appointments

a. A competitive class 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, promotion eligible or preferred 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, 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.

RULE XVI - EFFECT OF NON-PERMANENT SERVICE ON STATUS OF EMPLOYEES-contd.

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. All prospective appointees under this rule shall receive a copy of this rule and be canvassed as "permanent-contingent permanent."

c. Contingent permanent appointments from eligible lists shall be made by selection of one of the top three (3) candidates on an appropriate eligible list willing to accept a contingent permanent appointment; there will be no recanvassing 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. 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 position.

e. 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. 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 XVII

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 Human Resources Director, 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:



## RULE XVII - TRANSFERS-contd

- a. 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. 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) The Human Resources Director determines that the examinations' scopes and qualifications for the position to which appointment is sought are identical; or  
2) 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. The Human Resources Director has determined that such appointment is for the good of the service.

## RULE XVIII

### **REINSTATEMENT**

#### 1. Reinstatements

a. A permanent competitive class employee who has resigned may be reinstated without further examination to the position from which he/she resigned, if then vacant, or in any vacant position to which the employee was eligible for transfer or reassignment. An employee who is laid off shall be eligible for reinstatement in the same manner as an employee who had resigned.

All reinstatements are subject to the following terms and conditions:

- i. The prospective appointing authority must request approval from the Human Resources Director to reinstate an individual.
- ii. A reinstatement may not be approved to a position for which a preferred list exists containing the name of an eligible willing to accept appointment.

## RULE XVII - REINSTATEMENT-contd

- iii. With the exception of an employee who is being reinstated to his/her former position within one (1) year from resignation, a reinstatement may not be approved to a position for which a promotion eligible list exists containing the names of three (3) or more eligibles willing to accept appointment.
- iv. The Human Resources Director shall determine if the reinstatement is for the good of the service.

Reinstatement following a break in service of more than one (1) year must also satisfy the following additional conditions:

- i. The appointing authority must provide documentation or explanation that demonstrates to the satisfaction of the Human Resources Director that the individual requested to be reinstated possesses current knowledge and skill in the occupational field to which reinstatement is sought.
- ii. If the position to which reinstatement is sought requires successful completion of medical and/or physical agility tests for original appointment, the individual being reinstated must satisfy these criteria immediately prior to reinstatement.

b. An employee that 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 a Preferred List

a. Preferred list eligibility shall continue for four years.

b. The failure or refusal of a person on a preferred list, after reasonable notice, to accept reinstatement to his/her former position, or any similar position in the same salary or 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 stricken from such preferred list. The name of such person may be restored to such preferred list and certified to fill appropriate vacancies as may occur only upon the request of such person and his/her submission of reasons satisfactory to the Human Resources Director for his/her previous failure or refusal to accept reinstatement.

c. A person on a preferred list shall not be deemed to relinquish his/her eligibility for reinstatement by reason of his/her refusal or acceptance of 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.

## RULE XVIII - REINSTATEMENT-contd.

d. The restoration of the name of a person to a preferred list, or his/her restoration to eligibility for certification 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 XIX

### LEAVE OF ABSENCE

#### 1. Leave of Absence Without Pay

A leave of absence without pay may be granted by the appointing authority in conformance with the regulations or policies established by the appropriate legislative body or appointing authority, provided, however, that a permanent competitive class employee may not encumber a permanent position by a leave without pay while holding a permanent appointment to another position in the civil service of the same municipality.

#### 2. Leave for Supervisory Police Personnel

Notwithstanding any other provisions of these rules, the promotion of a Police Officer to a higher rank for which that Officer has met all the requirements of eligibility for permanent promotion, except the training required under Section 209-q of the General Municipal Law, the Officer shall be deemed to be on a leave of absence from the lower rank position from which the Officer was promoted pending the completion of such training. During such period the lower rank position may not be filled except on a temporary basis. In the event the Officer fails to successfully complete the required training within the time allowed therefor, the Officer shall be restored to such lower rank position.

#### 3. Veterans' Educational Leave

A leave of absence without pay, not to exceed four (4) 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/her position, provided he/she makes application for such reinstatement within sixty (60) days after the termination of his/her courses of study.

## RULE XX

### RESIGNATION

#### 1. Resignation in Writing

Every resignation shall be in writing.

#### 2. Effective Date of Resignation

If no effective date is specified in a resignation, it shall take effect upon delivery to or filing with the appointing official. 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.

#### 3. Pending Disciplinary Charges

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/her termination shall be recorded as a dismissal rather than as a resignation.

#### 4. Withdrawal or Amendment of Resignation

A resignation may not be withdrawn, canceled or amended after it is delivered to the appointing authority, without the written consent of the appointing authority.

#### 5. Voluntary Demotion of Permanent Competitive Employee

An employee who voluntarily elects to relinquish his/her 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/she 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. An employee may not be reinstated to a position for which a preferred eligible list is established.

## RULE XXI

### **REPORTS OF APPOINTING AUTHORITIES**

For the purpose of certification of payrolls and to enable the Human Resources Director to keep an official roster of the classified service as required by law and to properly administer the provisions of the Civil Service Law and these Rules, each appointing officer, from time to time, and upon the date of the official action in each case, shall report to the Human Resources Director as follows:

- a. Every appointment or employment whether permanent, probationary, provisional, temporary, contingent permanent or otherwise, in the classified service, with the date of commencement of service and the title, salary, and compensation of the position.
- b. Every declination of an appointment under him/her by a person on an eligible list or preferred list, with copies of the offer or notice of appointment and the reply, if any.
- c. Every discharge during or at the end of probationary term with the date of the discharge.
- d. Every vacancy in a position, for whatever reason including the date.
- e. Every position abolished, with the date of such abolition.
- f. Every change of salary in a position, with the date of change.
- g. Every promotion, giving positions from which and to which made, with the salaries and date.
- h. Every proposed transfer, giving the positions from which and to which transfer is to be made, including the effective date and salary.
- i. Every reinstatement in a position, with the date and salary.
- j. Every leave of absence, with the effective date and duration.
- k. Every new position, giving a complete description of the duties and responsibilities.

## RULE XXII

### CERTIFICATION OF PAYROLLS

#### 1. Extended Certification

- (a) The Human Resources Director 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 Human Resources Director shall require certification of the first full payroll of the fiscal year for every civil division under its jurisdiction except school districts. The Human Resources Director shall certify the first full payroll of every school district under its jurisdiction in October every calendar year.
- (c) The Human Resources Director 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 Human Resources Director 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.

#### 2. Refusal or termination of certification

- (a) The Human Resources Director shall investigate any discrepancies between the payroll and the official roster and any other instances where the Human Resources Director finds the employment of a person may be in violation of the law or these Rules.
- (b) In any case where the Human Resources Director finds satisfactory evidence that the employment of a person is in violation of law or these Rules, or the Human Resources Director finds satisfactory evidence of intent to evade the provisions of law or these Rules in regard to the employment of any person, the Human Resources Director shall refuse certification or terminate a certification 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 XXIII

### POSITION CLASSIFICATION

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 Human Resources Director's Duties and Responsibilities for Position Classification:

a. The Human Resources Director shall classify and reclassify all positions in the civil service of all municipalities under its jurisdiction.

b. The Human Resources Director 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 Human Resources Director 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.

## RULE XXIII - POSITION CLASSIFICATION-contd.

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 Human Resources Director. After an analysis of the detailed description of duties and responsibilities, the Human Resources Director 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 Human Resources Director 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 Human Resources Director.

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 Human Resources Director, prior to creating the position. After an analysis of the detailed description of the duties and responsibilities, the Human Resources Director 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 Human Resources Director may, upon its own initiative, review the duties and responsibilities and qualification requirements of any position under its 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 Human Resources Director. After an analysis of the detailed description of the duties and responsibilities, the Human Resources Director 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 Human Resources Director. After an analysis of the duties and responsibilities of the position, the Human Resources Director 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



## RULE XXIII - POSITION CLASSIFICATION-contd

c. Any employee in the classified service may apply to the Human Resources Director 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 Human Resources Director 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 of Appeals. The Human Resources Director shall give reasonable notice of any proposal or application for a change in classification to the appointing authority 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 Human Resources Director 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 XXIV

### **PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION CONCERNING POLITICAL AFFILIATION**

No question in any examination or application or other proceeding by the Human Resources Director or its 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 shall be discountenanced by the Human Resources Director and its examiners. No discrimination shall be exercised, threatened or promised against or in favor of any applicant, competitor or eligible because of his/her political opinions or affiliation.

## RULE XXV

### **LAYOFF OF COMPETITIVE CLASS EMPLOYEES**

1. 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.

RULE XXV - LAYOFF OF COMPETITIVE CLASS EMPLOYEES-contd.

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. Each department of a county, city, town, or village; each school district; each community college; each special district; and, each authority shall be deemed to be a layoff unit.

d. Satisfactory Service shall mean service in the last fiscal year by an employee during which he/she did not receive an "Unsatisfactory" performance rating and was not found guilty of misconduct or incompetency pursuant to Section Seventy-five of the Civil Service Law or negotiated disciplinary procedure which resulted in the imposition of any of the following penalties upon such employee:

- 1) Dismissal from the service; or
- 2) Suspension without pay for a period exceeding one month; or
- 3) Demotion in grade and title.

e. Permanent Service

1) Original Appointment

Permanent service shall start on the date of the incumbent's original appointment on a permanent or contingent permanent basis in the classified service; however, in the case of disabled veterans, the date of original permanent appointment is considered to be sixty (60) months earlier than the actual date, while non-disabled veterans are considered to have been appointed thirty (30) months earlier than their actual date of appointment. For the purposes of this rule the definition of what constitutes a veteran or disabled veteran is contained in Section Eighty-five of the Civil Service Law.

2) Resignation Followed by a 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.

3) Temporary or Provisional Service

Temporary or provisional service preceding the original permanent appointment does not count. However, temporary, provisional or contingent permanent employment immediately preceded and followed by permanent classified service employment does not interrupt continuous service.

## RULE XXV - LAYOFF OF COMPETITIVE CLASS EMPLOYEES-contd

### 4) Seniority of Transferred Employees

The permanent service of any employee who was transferred from another civil division shall start on the date of his/her original permanent appointment in the classified service in the other civil division.

### 5) Seniority Date When Covered-In

If an employee was covered-in to a classified position upon acquisition by a civil division of a private institution or enterprise in which he/she was employed, his/her 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. 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. 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. A blind person may not backdate his/her permanent service if he/she also happens to be either a veteran or disabled veteran. A person is considered blind if he/she is so certified by the Commission for the Blind and Visually Handicapped of the New York State Office of Children and Family Services.

d. When two or more permanent incumbents of positions in a specific 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.

e. When several employees were originally appointed on a permanent basis from the same eligible list on the same day, their retention rights shall be determined by their rank on that eligible list; that person having the highest rank having greater retention rights over those having lower ranks.

f. All temporary, provisional and contingent permanent employees occupying these positions must be let go before any permanent employee is suspended from such positions.

## RULE XXV - LAYOFF OF COMPETITIVE CLASS EMPLOYEES-contd

g. 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/her probationary period. Probationary employees do, however, have greater retention rights to those of contingent permanent, temporary, and provisional employees.

h. The order of suspension among probationary employees shall follow the same principles as that among permanent employees.

i. 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.

### 3. Vertical Bumping

a. Vertical bumping occurs when an employee in a specific title to which there is a direct line of promotion, who is himself/herself 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. If an employee refuses to displace a junior incumbent, he/she 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 level are being abolished.

c. 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. Retreat occurs when and only when there is no lower occupied position in direct line of promotion at any level.

b. 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/she 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.

RULE XXV - LAYOFF OF COMPETITIVE CLASS EMPLOYEES-contd.

c. The service of the displacing incumbent in the title to which he/she is retreating need not have been in the same layoff unit as the one from which he/she is displaced.

d. An employee may also displace by retreat to a position in a title he/she last served on a permanent basis although he/she had intervening service in other title as long as his/her service in each of the intervening titles was on other than a permanent basis. He/she may also displace by retreat to a position, which does not count in the computation of his/her continuous service.

e. 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. 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. 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 A

### EXEMPT CLASS

#### COUNTY SERVICE

Assistant County Attorneys (4)

Assistant County Attorney 1st

Assistant District Attorneys (5)

Assistant District Attorney 1st

Budget Officer

Confidential Secretary – County Attorney

Confidential Secretary - Sheriff

Confidential Secretary to District Attorney

Confidential Secretary to the Public Defender

Coordinator of Emergency Management Services

County Attorney

County Manager

Deputy County Attorney

Deputy County Clerks (2)

Deputy County Treasurer

Deputy Highway Superintendent (2)

Executive Assistant to County Manager

Human Resources Director

Public Defender

Secretary, Soil & Water Conservation District Directors

Senior Assistant District Attorney

Undersheriff

APPENDIX A - EXEMPT CLASS, Cont'd:

CITY OF BATAVIA

Assistant to City Administrator

Deputy Clerk-Treasurer

Deputy Director of Finance

Director of Community Development

Executive Director - Housing Authority

Police Attorney

Secretary-Housing Authority

Secretary to City Administrator

TOWN SERVICE - In all Towns

Budget Officer

Court Justice Clerks (2)

Deputy Clerk-Treasurer

Deputy Superintendent of Highways

Deputy Supervisor

Dog Enumerator

Secretary to Supervisor

Town Attorney

TOWN OF ALABAMA

Deputy Town Clerks (2)

TOWN OF ALEXANDER

Deputy Town Clerks (3)

TOWN OF BATAVIA

Deputy Town Clerks (3)



APPENDIX A - EXEMPT CLASS, Cont'd:

TOWN OF BERGEN

Deputy Town Clerks (3)

TOWN OF BETHANY

Deputy Town Clerk (1)

TOWN OF BYRON

Deputy Town Clerks (3)

TOWN OF DARIEN

Deputy Town Clerks (3)

TOWN OF ELBA

Deputy Town Clerks (3)

TOWN OF LEROY

Deputy Town Clerks (3)

TOWN OF OAKFIELD

Deputy Town Clerks (2)

TOWN OF PAVILION

Deputy Town Clerk (1)

TOWN OF PEMBROKE

Deputy Town Clerks (3)

TOWN OF STAFFORD

Deputy Town Clerks (3)

TOWN OF BATAVIA

Town Manager

VILLAGE SERVICE - In all Villages

Acting Police Justice

Deputy Village Clerk

Deputy Village Treasurer

Deputy Village Clerk and Treasurer

Village Attorney

APPENDIX A - EXEMPT CLASS, Cont'd:

VILLAGE SERVICE - all Villages except the Village of Corfu

Court Justice Clerk

VILLAGE SERVICE - Village of LeRoy, Bergen, Oakfield

Village Administrator

VILLAGE OF CORFU

Associate Justice

Court Justice Clerks (2)

SCHOOL SERVICE - In all School Districts

Census Taker

Claims Auditor

School Attorney

School District Clerk

School District Treasurer

School Tax Collector

Secretary to Superintendent of Schools

APPENDIX B

NON-COMPETITIVE CLASS

IN ALL OFFICES AND DEPARTMENTS WHERE THE FOLLOWING  
POSITIONS EXIST:

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 OVR State Education Department as otherwise physically or mentally disabled.

APPENDIX B – NON COMPETITIVE CLASS, Cont'd:

IN ALL CIVIL DIVISIONS OF LESS THAN 5000 POPULATION

Chief Wastewater Treatment Plant Operators  
Chief Water Treatment Plant Operators  
Code Enforcement Officer I  
Code Enforcement Officer II  
Dispatchers  
Public Works Supervisors  
Wastewater Treatment Plant Operators  
Wastewater Treatment Plant Operator Trainees  
Water System Operators\*  
Water Treatment Plant Operators  
Water Treatment Plant Operator Trainees  
Zoning/Building Compliance Administrator\*

IN ALL CIVIL DIVISIONS AND AGENCIES

Assessment Aides\*  
Assistant Automotive Mechanics  
Assistant Cooks  
Assistant Electricians  
Assistant Recreation Supervisors\*\*  
Audio-Visual Aides\*  
Automotive Mechanics

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

IN ALL CIVIL DIVISIONS AND AGENCIES. Cont'd:

Bakers

Building Inspectors\*

Building Maintenance Workers

Building Maintenance Mechanics

Campus Security Officers\*

Chauffeurs

Clerks of the Works\*

Clerk-Typists\*

Clerks\*

Computer Operators\*

Cooks

Couriers

Courier/Cleaners

Court Attendants\*

Custodians\*

Day Care Workers

Dispatchers\*

Dog Control Officers

Electricians

Emergency Services Dispatchers\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

IN ALL CIVIL DIVISIONS AND AGENCIES. Cont'd:

Equipment Maintenance Mechanics

Financial Clerks\*

Financial Clerk-Typists\*

Groundskeepers

Heavy Equipment Operators

Landfill Equipment Coordinators\*

Librarians I\*

Library Assistants\*

Library Clerks\*

Licensed Practical Nurses

Lifeguards\*

Maintenance Mechanics

Maintenance Workers

Maintenance Workers II

Meter Readers\*

Motor Equipment Operators

Motor Equipment Operator Trainees

Municipal Bingo Inspectors\*

Painters

Physicians\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

IN ALL CIVIL DIVISIONS AND AGENCIES. Cont'd:

Plumbing Inspectors\*

Public Works Maintenance Workers

Receptionists\*

Recycling Supervisors\*

Recreation Assistants\*\*

Recreation Leaders\*\*

Recreation Specialists\*\*

Recreation Supervisors\*\*

Registered Professional Nurses

Reproduction Services Operators

School Crossing Guards\*

Senior Clerks\*

Senior Custodial Workers

Senior Food Service Helpers

Senior Library Clerks\*

Senior Recreation Leaders\*\*

Senior Typists\*

Senior Water and Wastewater Maintenance Workers

Skilled Laborers

Stenographers\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

IN ALL CIVIL DIVISIONS AND AGENCIES. Cont'd:

Stock Clerks\*

Student Interns

Summer Youth Counselors\*\*

Supervising Lifeguards\*\*

Swimming Instructors\*

Swimming Program Directors\*\*

Tax Collectors\*

Telephone Operators\*

Television Equipment Technicians\*

Typists\*

Wastewater Treatment Plant Operators\*

Wastewater Treatment Plant Operator Trainees\*

Water and Wastewater Maintenance Supervisors\*

Water and Wastewater Maintenance Workers

Water Bill Collectors\*

Water Treatment Plant Operators\*

Water Treatment Plant Operator Trainees\*

Welders

Working Supervisors

Zoning Enforcement Officers\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

COUNTY SERVICE

Adult Services Aides

Affirmative Action/EEO Officer

Assistant Director of Veterans Service Agency

Assistant Public Defenders\*

Assistant Public Defender 1st

Assistant Social Workers\*

Assistant to the County Manager

Associate Medical Director\*

Automotive Parts Workers

Automotive Servicemen

Bridge Maintenance Workers

Certified Nursing Assistants

Child Care Workers

Code Enforcement Officers I

Commissioner of Health\*

Commissioner of Social Services

Community Health Nurses\*

Community Service/Victim Assistants\*

Compliance Officer

Computer Repair Technician

\*Part-Time

\*\* Seasonal



APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

COUNTY SERVICE. Cont'd

Cook Manager-Jail

Cook Managers

County Historian / Archivist

Deputy Coordinator of Emergency Management Services\*

Deputy Director Employment & Training II

Deputy Director of Real Property Tax Services

Deputy Fire Coordinators\*

Deputy Sheriffs\*

Director of Community Mental Health Services

Director of Information Technology

Director of Office for the Aging

Director of Planning

Director of Real Property Tax Services

Director of Veterans Service Agency

District Forestry Aides\*\*

Drivers

Emergency Services Dispatchers\*

Employment and Training Director II

Employment and Training Counselors (Junior)\*\*

Employment and Training Tutors\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

COUNTY SERVICE. Cont'd:

Employment and Training Manager (PIC)

Employment and Training Worksite Trainers\*

Highway Maintenance Men

Inventory Clerks\*

Jail Physician\*

Jail Superintendent

Legal Clerk-Typists\*

Legal Consultant\*

Medical Consultants\*

Medical Directors\*

Medical Records Clerks\*

Nutrition Project Meal Site Assistants\*

Nutrition Project Meal Site Assistant (Office for the Aging,  
Tonawanda Indian Reservation)

Occupational Therapists\*

Occupational Therapy Assistants\*

Park Maintenance Assistant

Human Resources Clerks\*

Physical Therapists\*

Physical Therapist Assistants\*

Physical Therapy Consultants\*

Planning Interns\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

COUNTY SERVICE. Cont'd:

Program Assistant, Office for the Aging\*

Public Health Educators\*

Recycling Administrator

Risk Manager

Safety Coordinator\*

Senior Building Maintenance Mechanics

Senior Chauffeurs

Sign Maintenance Mechanics Sign Maintenance Workers

Social Welfare Examiners\*

Social Work Assistants\*

Social Workers\*

Speech Therapy Consultants\*

Stock Clerks\*

Stop - DWI Coordinator\*

Summer Youth Assistants\*\*

Supervising Nurses\*

Television Production Technician\*

Veteran Service Officer

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

CITY OF BATAVIA

City Historian\*

Clerk of the Works\*

Code Enforcement Officers\*

Deputy Registrar of Vital Statistics\*

Parking Enforcement Agents\*

Recreation Operation Assistants\*\*

Registrar of Vital Statistics\*

TOWN SERVICE - In all Towns

Assessor

Assessor Trainee

Assistant Fire Chiefs\*

Code Enforcement Officers\*

Constables\*

Deputy Town Clerks\*

Fire Chiefs\*

Fire Inspectors

Public Works Coordinators\*

Recreation Specialists

Recycling Supervisors\*

Registrar of Vital Statistics\*

Town Historians\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

TOWN SERVICE - In all Towns. Cont'd:

Water Bill Collectors\*

Zoning Ordinance Compliance Officers\*

TOWN OF BATAVIA

Court Attendants\*

Court Officers\*

TOWN OF BETHANY

Court Officers\*

TOWN OF LEROY

Court Officers\*

TOWN OF PEMBROKE

Court Officers\*

VILLAGE SERVICE - In all Villages

Assessors\*

Communication Supervisors\*

Constables\*

Recycling Supervisors\*

Registrar of Vital Statistics\*

Village Historian\*

Zoning Ordinance Compliance Officers\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

VILLAGE OF BERGEN

Public Utility Worker

VILLAGE OF CORFU / VILLAGE OF LEROY

Police Officers - PT

VILLAGE OF LEROY

Youth Court Coordinator\* (Less than 5,000 population)

SCHOOL SERVICE - In all School Districts

Attendance Officers\*

Bus Drivers

Bus Driver/Monitors

Bus Driver Trainee

Cook Managers

Drivers (School)

Health Office Assistants\*

Media Center Aides

Nutrition Project Meal Site Assistants\*

Personal Health Care Aides

Physical Therapists\*

Registered Professional Nurses (School)

School Dentists\*

School Lunch Managers\*

\*Part-Time

\*\* Seasonal

APPENDIX B - NON-COMPETITIVE CLASS, Cont'd:

SCHOOL SERVICE - In all School Districts, Cont'd:

School Physicians\*

Teachers Aides

Transportation Supervisors\*

APPENDIX B-1

NON-COMPETITIVE CLASS  
(Positions designated as confidential or policy influencing  
pursuant to Section 42.2-a of the Civil Service Law)

IN ALL CIVIL DIVISIONS AND AGENCIES

Assessor (Town Service)	PI
Code Enforcement Officer I (Less than 5000 pop)	PI
Code Enforcement Officer II (Less than 5000 pop)	PI
Zoning Enforcement Officers*	

COUNTY SERVICE

Assistant Director of Veteran's Service Agency	PI
Assistant Public Defenders	C
Assistant Public Defender 1st	C/PI
Assistant County Manager	C/PI
Associate Medical Director*	C/PI
Commissioner of Social Services	PI
Compliance Officer	C/PI

\*Part-time                      C-Confidential                      PI-Policy Influencing

APPENDIX B-1 - NON-COMPETITIVE CLASS SECTION 42.2a, Cont'd:

COUNTY SERVICE. Cont'd:

County Historian / Archivist	PI
Deputy Coordinator of Emergency Management Services*	PI
Deputy Director Employment & Training II	PI
Deputy Director of Real Property Tax Services	PI
Deputy Fire Coordinators*	PI
Director of Community Mental Health Services	PI
Director of Information Technology	PI
Director of Office for the Aging	PI
Director of Planning	PI
Director of Real Property Tax Services	PI
Director of Veteran's Services Agency	PI
Employment & Training Director II	PI
Employment & Training Manager (WIB)	PI
Jail Superintendent	PI
Medical Consultant*	C/PI
Medical Director*	C/PI
Public Health Director	C/PI
Recycling Administer	PI
Risk Manager	PI
Senior Assistant Public Defenders (2)	PI

\*Part-time

C-Confidential

PI-Policy Influencing



APPENDIX B-1 - NON-COMPETITIVE CLASS SECTION 42.2a, Cont'd:

TOWN SERVICE - (Town of Bergen)

Building Inspector*	PI
Clerk-Typist* (acting as Planning Board Secretary)	C
Recycling Supervisor*	PI
Town Historian*	PI
Typist* (acting as Town Supervisor's Secretary)	C

TOWN SERVICE - (Town of Byron)

Town Historian*	PI
Water/Wastewater Maintenance Foreman*	PI

SCHOOL SERVICE - (Pavilion)

Automotive Mechanic	PI
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APPENDIX C

LABOR CLASS

IN ALL CIVIL DIVISIONS AND AGENCIES

Airport Fuel Attendants  
Cleaners  
Cleaner/Laborers  
Custodial Workers  
Flagperson  
Food Service Helpers  
Laborers

\*Part-time

C-Confidential

PI-Policy Influencing

APPENDIX C – LABOR CLASS. Cont'd:

IN ALL CIVIL DIVISIONS AND AGENCIES. Cont'd:

Laborers II

Library Pages

Recreation Aides

Recreation Attendants

Recycling Attendants

School Monitors

COUNTY SERVICE

Activities Aides

Aging Services Aides

Community Service Aides

File Room Attendant

Home Health Aides

Parent Aides

Park Attendants

Physical Therapy Aides

Resident Assistants

SCHOOL SERVICE - In all School Districts

Student Aides

## APPENDIX D

### UNCLASSIFIED

#### COUNTY SERVICE

All positions in the Community College as certified by the Board of Trustees in accordance with the provisions of Section 35 (l) of the Civil Service Law

All members, officers and employees of Boards of Elections

Chair of the Legislature

Clerk to the County Legislature

Coroners

County Clerk

County Highway Superintendent

County Treasurer

Deputy Clerk to the County Legislature

District Attorney

Executive Secretary Workers Compensation

Legislators

Nursing Home Administrator

Sheriff

APPENDIX D – UNCLASSIFIED, Cont'd:

CITY OF BATAVIA

Auditor\*

City Administrator

City Attorney

City Clerk-Treasurer

City Councilperson

City Engineer

TOWN SERVICE - In all Towns

Board of Assessors (Elected)

Clerk-Treasurer

TOWN SERVICE – In all Towns, Cont'd.

Collector of Taxes

Councilperson

Superintendent of Highways

Town Clerk

Town Justices

Town Supervisor

Zoning Board of Appeals

VILLAGE SERVICE - In all Villages

Clerk-Treasurer

Mayor

Trustees

\*Part-Time

APPENDIX D – UNCLASSIFIED, Cont'd:

VILLAGE SERVICE - In all Villages, Cont'd:

Village Assessors (Elected)

Village Clerk

Village Justices

Village Tax Collector

Village Treasurer

Zoning Board of Appeals

VILLAGE SERVICE - Village of Alexander

Assessors (3)

SCHOOL SERVICE - In all School Districts

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.