

RENSSELAER COUNTY

CIVIL SERVICE RULES

TABLE OF CONTENTS

	<u>PAGE</u>
Purposes and Effect of the Rules	1
Rule I Definitions	2
II Organization of the Commission	4
III Exempt Class	5
IV Non-Competitive Class	6
V Labor Class	7
VI Unclassified Service	8
VIa Competitive Class	9
VI Recruitment of Personnel	10
VIII Applications	12
IX Disqualification.	13
X Examinations	14
XI Eligible Lists	17
XII Certification	19
XIII Promotions	22
XIV Probationary Term	23
XV Seasonal Appointments	28
XVI Effect of Temporary or Provisional Appointment on Status of Appointee	30
XVII Transfers	31
XVIII Reinstatement	32
XIX Leave of Absence	35
XX Resignation	37
XXI Reports of Appointing Officers	39
XXII Certification of Payrolls	41
XXIII Classification Plan	43
XXV Prohibition Against Questions Eliciting Information Concerning Political Affiliation	46
XXVI Layoff of Competitive Class Employees	47

RULES FOR THE CLASSIFIED CIVIL SERVICE
OF
RENSSELAER 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 Rensselaer 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 Rensselaer County as well as the towns, villages and special districts therein. These rules may be amended by the Commission after public hearing and subject to the approval of the State Civil Service Commission.

RULE I
DEFINITIONS

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

1. Commission The civil service commission of the county of Rensselaer
2. Employee The incumbent of a position holding the position in accordance with these rules and the Civil Service Law.
3. Position An office or employment involving an aggregation of duties to be performed and responsibilities to be exercised by one person.
4. Compensation The remuneration of the position and shall include food, lodging, maintenance and commutation when the same is furnished.
5. Eligible list An official record kept in the commission's office as a public record which contains the names of those persons who have successfully completed examinations, listed and ranked in order of their final ratings from the highest to the lowest rank.
6. Part-time Employment Any employment or a combination of one or more employments in a civil division in which an individual works less than fifty percent of the time prescribed as a normal work week by the appropriate governing body or other appropriate authority of the civil division or wherein the employee earns not more than fifteen hundred dollars (\$1500) annually.

7. Transfer 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.

8. Reassignment The change, without further examination, of a permanent employee from one position to another similar position under the jurisdiction of the same appointing authority.

9. Municipality County, town, city, village or special district

RULE II
ORGANIZATION OF THE COMMISSION

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The Commission shall designate one of its members as Chairman. Two Commissioners shall constitute a quorum for the transaction of business. The Commission may appoint a Secretary who shall not be a commissioner, and such other subordinates and employees within available appropriations as it may deem necessary or proper to carry out the purposes of these rules and the law. It shall fix the duties of these employees. The Commission shall keep true and accurate minutes of all its meetings and proceedings which shall be open to public inspection.

RULE III
EXEMPT CLASS

1. 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. Positions in the exempt class shall be listed in Appendix A of these rules and made a part hereof.

RULE IV
NON-COMPETITIVE CLASS

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1. 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 Commission. A nomination for such an appointment shall state the qualifications of the nominee and shall be filed by the appointing authority with the Commission. Such appointment shall become effective only after approval by the Commission.

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

RULE V
LABOR CLASS

1. The labor class shall include unskilled laborers.
2. 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 Commission 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. Positions in a labor class shall be listed in Appendix C of these rules and made a part hereof.

RULE VI

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 VI a
COMPETITIVE CLASS

All positions not included in the exempt class, non-competitive class, labor class or unclassified service shall be in the competitive class.

RULE VII

RECRUITMENT OF PERSONNEL

1. Residence requirements for municipal positions.

An applicant must be at the time of examination and for a 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 Commission. Residence requirements may be suspended or reduced by the Commission in cases where requirement difficulty makes such requirements disadvantageous to the public interest.

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, at the time of examination and for at least four months prior thereto, a resident of such municipality in order to be included in a certification as a resident of such municipality (appd. NYS CSC 3/18/69).

2. Announcements of examinations.

The public announcements of examinations 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 weights 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 VIII
APPLICATIONS

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1. Applications of candidates for positions in the competitive class and for position in the non-competitive class must be addressed to the Commission at the office of the Commission.

2. The Commission 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.

RULE IX
DISQUALIFICATION

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

3. The burden of establishing his qualifications to the satisfaction of the Commission shall be upon the applicant. Any applicant who refuses to permit the Commission to investigate matters necessary for the verification of his qualifications or who otherwise hampers, impedes or fails to cooperate with the Commission in such investigation shall be disqualified for examination or, after examination, for certification and appointment.

RULE X
EXAMINATIONS

1. 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 Commission 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, sub-division 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. The Commission shall adopt a system to conceal the identity of the candidate's papers in a written examination until such written examination has been rated.

3. For examinations prepared and rated by the Commission, 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. 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 Commission and in the presence of a designated representative of the Commission, 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) A candidate who wishes to appeal to the Commission 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.

(b) 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.

(c) The Commission may at any time during the life of an eligible list, resulting from an examination prepared and rated by the Commission, correct any clerical or computational errors in the ratings of candidates who competed in the examination.

(d) 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 shall be prepared for each examination held. Such keys shall be a permanent part of the record of each examination.

RULE XI
ELIGIBLE LISTS

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1. 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 Commission.

2. The date of the establishment of a list shall be the date fixed therefor by Commission resolution, and shall be entered on such list. The duration of all eligible lists shall be fixed by Commission resolution 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 Commission may, by resolution, 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 lists are notified in writing of the extension of the eligible list.

3. Eligible lists shall be open to public inspection at the office of the Commission. The names of persons who failed to receive a passing grade on the examination shall not be disclosed to the public.

4. The Commission shall have power in its discretion to correct any error and amend any eligible list where it appears that an error has been made. Commissions 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 in the minutes of the Commission and reported to the State Civil Service Commission.

RULE XII
CERTIFICATION

1. The Commission 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. A certification issued by the Commission to an appointing officer shall be valid for a period of 30 days from the date of its issuance. After the expiration of such 30 day period, no appointment shall be made except from a new certification. The Commission, for good cause shown, may extend a certification up to a maximum of sixty (60) days upon request of an appointing authority.

3. 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 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 by telegram, he/she may be considered ineligible for purposes of making selection for such particular appointment.

4. The name of the person declining appointment shall be eliminated from further certifications 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 appointment;

(c) Temporary inability, physical or otherwise, which must be satisfactorily explained by the eligible in writing;

(d) Other reason deemed acceptable by the Commission. The Commission shall enter upon the eligible lists the reasons for its action in such cases.

5. 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 list as provided in rule eleven.

6. 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 Commission 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.

7. Whenever one or more eligibles shall have declined any appointment offered 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/her appointment beyond that offered to the persons so declining.

8. 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 lay-off 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 the position.

9. 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 Commission 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 Commission 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 a probationary period.

10. 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 Commission 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. 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. Any person who is nominated for a 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.

RULE XIV
PROBATIONARY TERM

1. Probationary Term

- (a) Except as herein otherwise provided, every permanent appointment from an open competitive list and every original 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 twenty-six weeks.
- (b) The probationary term for training positions, 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) An appointment shall become permanent upon the retention of the probationer after this completion of the maximum period of service or upon earlier written notice following completion of the minimum period of service that his probationary term is successfully completed. A copy of such notice shall be sent to the Commission.

If the conduct or performance of a probationer is not satisfactory, his employment may be terminated at any time after the completion of the minimum period of service, and on or before completion of the maximum period of service in the manner as prescribed in these rules. (Adopted RC CSC, 10/18/78)

2. Promotions and Interdepartmental transfers. An interdepartmental transfer means a transfer from a position in one department to a position in another department. Every promotion and every interdepartmental transfer shall be for a probationary term of twelve weeks. If the conduct or performance of the probationer is not satisfactory his employment in such position shall be discontinued at the end of such term. For the purposes of this subdivision, the term "promotion" shall include the appointment of an employee to a higher grade position in the non-competitive or exempt class.
3. Restoration to permanent position. When a permanent employee is promoted or transferred to a position in which he is required to serve a probationary term, the position thus vacated by him shall not be filled, except on a temporary basis, during such probationary term. At any time during such probationary term the employee shall have the right to return to his previous position at his own election. If the conduct or performance of the probationer is not satisfactory, he shall be restored to his former permanent position at the end of his 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 counted as time served in the probationary term. Any such periods of absence in excess of an aggregate of ten work days 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 absence which, pursuant to this section, are not considered as time served in the probationary term.

Nothing in this section shall be construed to except a probationer from the application of section four of rule twenty of these rules.

5. Report on probationer's service. The Probationer's supervisor shall carefully observe his conduct and performance and, at least two weeks prior to the end of the probationary term shall report thereon in writing to the proper appointing authority. The supervisor shall also, from time to time during the probationary term, advise the probationer of his status and progress. A probationer whose services are to be terminated for unsatisfactory service shall receive written notice at least one week prior to such termination and upon request, shall be granted an interview with the appointing authority or his representatives.

6. Restoration to eligible list. A probationer whose employment is terminated or who resigns before the end of his probationary term may request that his name be restored to the eligible list from which he was appointed, provided such list is still in existence. His name may be restored to such list if the Commission in its discretion determines that the probationer should be given a second opportunity for appointment.

7. Temporary or provisional service in higher level position. When an employee who has not completed his probationary term is appointed on a temporary or provisional basis to a higher level position, the period of temporary or provisional 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 lower position and may be counted as such in determining the satisfactory completion of such 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 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 request, shall be returned to his lower position for sufficient time to permit him to complete his probationary term. The employment of such a probationer in his lower position shall not be terminated at the end of his probationary term on account of unsatisfactory service unless he 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 obtained 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, at any time during the probationary term, to remove a probationer for incompetency or misconduct.

9. Notwithstanding any other provision of these rules, the appointment or promotion of a Police Officer shall not become permanent unless and until he has satisfied such requirements as may be applicable to him under section two hundred nine-q of the General Municipal Law. If a Police Officer is promoted to a higher rank for which he 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 shall be deemed to be on leave of absence from the lower rank position from which he was promoted pending completion of such training. During such period such lower rank position may not be filled except on a temporary basis. In the event of his failure to complete such training successfully within the time allowed therefor, he shall be restored to such lower rank position.

(appd. NYS CSC, 3/18/69)

10. An employee who is reinstated to a position after a separation of more than one year, either in his 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.

(appd NYS CSC, 3/18/69)

RULE XV
SEASONAL APPOINTMENTS

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1. Appointment to seasonal positions in competitive class.
 - a. Positions in the competitive class where the nature of the 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. 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 re-employment 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 Commission 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 list resulting from open competitive examination.

c. 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.

RULE XVI

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/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. Provisional appointment of permanent employee.

a. 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/her shall not be filled on other than a temporary basis pending his/her reinstatement thereto upon failure of his/her provisional appointment to mature into permanent appointment.

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

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 the same titled position. No provisional employee who fails two examinations

for permanent appointment shall be eligible for provisional appointment in the same title under the same appointing authority. For the purpose of this rule, a failure to appear for an appropriate examination shall constitute a failure on an appropriate examination.

- b. The term of provisional appointment shall end within the time period prescribed in subdivision 3 of section sixty-five of the Civil Service Law or upon the receipt of the results of an examination wherein no candidate passed the appropriate examination. A provisional appointee, who fails to qualify on an appropriate examination, may be authorized a second provisional appointment at the discretion of the appointing authority and the Civil Service Commission 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 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 these rules.

(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. 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 candidates on an appropriate eligible list willing to accept a contingent permanent appointment; there shall

be no reconvening 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 positions.

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. General conditions and limitations. In addition to the conditions and limitations prescribed by statute or in other provisions of these rules, transfers shall be subject to the following requirements:
 - a. A transfer may be allowed only if it is impracticable to fill the position to which transfer is sought by promotion from among persons holding lower grade positions in the department or agency in which such position exists.
 - b. A transfer may not be made to a position for which a preferred list containing the name of an eligible willing to accept reinstatement to such position exists.
 - c. A transfer may be made only if the position to which transfer is sought is at the same or substantially the same or a lower salary level than the position from which transfer is sought.
 - d. Every transfer shall require the consent, in writing, of the transferee and of the respective appointing authorities having jurisdiction over the positions to which and from which transfer is sought, and the approval of the Civil Service Commission.
2. Transfer between positions in different civil divisions under the jurisdiction of the Commission. A transfer may be allowed from a position in one civil division to a position in another civil division under the jurisdiction of the Commission, provided the prospective transferee meets applicable residence requirements, if any, for the position to which transfer is sought and provided

such prospective transferee at any time would have been eligible and reachable for appointment to the position to which transfer is sought from an eligible list resulting from an examination having the same or less restrictive residence requirements than those applicable, at the time of transfer, to the position to which transfer is sought. A transfer may also be allowed from a position in one such civil division to a position in another such civil division whenever a competitive examination for the latter position in which the prospective transferee was eligible to compete has failed to produce sufficient eligibles to fill all vacancies in the position to which transfer is sought.

3. Transfers between State and Local Positions.

- a. A transfer may be made from a position in the State service to a position subject to these rules, provided the prospective transferee meets the residence requirements, if any, applicable to the position to which transfer is sought.
- b. A transfer may be made from a position subject to these rules to a position in the service of the State, provided the prospective transferee was, at or subsequent to the time of original appointment in an agency subject to these rules, eligible for certification and appointment to the position in the State service to which transfer is sought.
- c. A transfer pursuant to this section shall require the approval of the State Civil Service Department and the municipal civil service commission having jurisdiction over the local position to or from which transfer is made.

4. Transfers pursuant to reciprocal rules.

- a. This section shall apply to transfers between positions subject to these rules and positions in a civil division under the jurisdiction of the State Civil Service Department or under the jurisdiction of a municipal commission which had adopted a reciprocal rule permitting transfers of employees to and from other governmental jurisdictions.
- b. A transfer may be made pursuant to this section, provided that
 - i. The prospective transferee holds a position to which he was appointed from an eligible list resulting from an examination prepared and rated by the State Civil Service Department;
 - ii. Such examination is or would be appropriate for filling the position to which transfer is sought;
 - iii. Such person meets applicable residence requirements, if any, for the position to which transfer is sought, and
 - iv. Such person at any time would have been eligible and reachable for appointment to the position to which transfer is sought from an eligible list resulting from an examination having the same or less restrictive residence requirements than those applicable, at the time of transfer, to the position to which transfer is sought.
- c. Any person holding a permanent appointment in a competitive class position in the service of a civil division may be transferred to a similar position in another civil division having qualifications and examination requirements similar to or lower than the position then held by such person, as determined by the State Civil Service Department, provided that a competitive examination for the latter position in which such

person was eligible to compete has failed to produce sufficient eligibles to fill vacancies in the civil division to which transfer is sought.

d. Any transfer pursuant to this reciprocal rule shall require the approval of the State Civil Service Department and the respective municipal commission having jurisdiction over the positions from which and to which transfer is sought.

RULE XVIII
REINSTATEMENT

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1. 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:

- The prospective appointing authority must request approval from the Commission to reinstate an individual.
- 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.
- With the exception of an employee who is being reinstated to his/her former position within one year from resignation, a reinstatement may not be approved to a position for which a promotion eligible list exists containing the names of three or more eligibles willing to accept appointment.
- The Commission shall determine if the reinstatement is for the good of the service.

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

- The appointing authority must provide documentation or explanation that demonstrates to the satisfaction of the Commission that the

- individual requested to be reinstated possess current knowledge and skill in the occupational field to which reinstatement is sought.
- 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.

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

(a) Relinquishment of eligibility for reinstatement. The failure or refusal of a person on a preferred list, after reasonable notice, to accept reinstatement therefrom to his 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 eligibility for reinstatement, and his name shall be 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 submission of reasons satisfactory to the Commission for his previous failure or refusal to accept reinstatement.

(b) Effect of refusal to accept reinstatement to lower grade position.

A person on a preferred list shall not be deemed to relinquish his eligibility for reinstatement therefrom by reason of his failure or refusal to accept reinstatement to a position in a lower salary grade than the position from which he was suspended or demoted. The name of such person may be withheld from further certification for reinstatement to a position in the same or a lower salary grade than the position to which he failed or refused to accept reinstatement.

(c) Restoration to eligibility for reinstatement not to affect previous appointments. The restoration of the name of a person to a preferred list, or his restoration to eligibility for certification therefrom to positions in a lower salary grade than his 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 a person would otherwise have been eligible for reinstatement from such preferred list.

RULE XIX

LEAVE OF ABSENCE

1. 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 Commission. Where a leave of absence without pay has been granted for a period which aggregates one year, 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 Commission. 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. In an exceptional case, the Commission 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 the leave.

3. 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 World War II or who participated in the Korean hostilities, providing the leave of absence is for the purpose of taking courses under the

Servicemen's Readjustment Act of 1944 or the Veteran's Assistance Act of 1952 or under a New York State Board of Regents War Service Scholarship. An employee taking such leave shall be reinstated to his position, provided he makes application for such reinstatement within sixty days after the termination of his course of study.

RULE XX
RESIGNATION

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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. Unauthorized absence; when deemed a resignation.

When an employee is absent without leave and without an explanation therefore for a period of ten work days, such absence shall be deemed to constitute a resignation effective on the date of the commencement of such absence. The failure of an employee to return to his position within ten work days following the expiration of a leave of absence, or extension thereof, without submitting an explanation therefore within such ten day period shall constitute a resignation which, for purposes of determining eligibility for reinstatement, shall be deemed to be effective as of the date of commencement of such leave of absence. Nothing herein shall be deemed to excuse the unauthorized absence of an employee or his failure to return to his position upon the expiration of an authorized leave of absence, and any such failure may be regarded as misconduct in an appropriate disciplinary proceeding.

5. 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 XXI

REPORTS OF APPOINTING OFFICERS

For the purpose of certification of payrolls and to enable the Commission 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 Commission as follows:

- a. 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. Every failure to accept an appointment under him by a person eligible therefor, with copies of the offer or notice of appointment and the reply thereto, if any.
- c. Every discharge during or at the end of probationary term with the date thereof.
- d. Every vacancy in a position for whatever reason with the date thereof.
- e. Every position abolished, with the date of such abolition.
- f. Every change of compensation in a position, with the date thereof.
- g. Every promotion, giving positions from which and to which made, with the salaries and date thereof.

- h. Every transfer, giving the positions from which and to which made, with the date and salaries thereof.
- i. Every reinstatement in a position, with the date and salary thereof.
- j. Every leave of absence, with the date and duration thereof.
- k. Every new position, giving a complete description of the duties thereof.

RULE XXII
CERTIFICATION OF PAYROLLS

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1. Extended certifications.

The Commission 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, so long as his title and salary grade remain unchanged and during such stated period, except as to the first payment for services in each fiscal year and, if required by the Commission, the first payment for services in the second half of each fiscal year. Nothing herein shall be construed to prevent or preclude the Commission from terminating or rescinding a certification at any time by giving notice thereof to the appropriate fiscal or disbursing officer.

2. Temporary certifications.

When the name of any person is first submitted for certification following his appointment, reinstatement, promotion, transfer, or other change in status, and the Commission requires further information or time to enable it to make a final determination thereon, the Commission may certify such person temporarily pending such final determination. In such event the Commission shall immediately request the necessary additional information from the appointing authority, who shall furnish forthwith. If such information is not furnished promptly, or if the Commission finds, following receipt of such information, that the employment

of such person is not in accordance with the law and rules, the Commission shall immediately terminate such certification by notice to the appropriate fiscal or disbursing officer.

3. Refusal or termination of certification.

Upon satisfactory evidence of intention to evade the provisions of the law and of these rules in assigning any employee to perform duties other than those for which he was examined and certified or under any title not appropriate to the duties to be performed, the Commission shall refuse certification or terminate a certification previously made and then in force.

RULE XXIII

CLASSIFICATION PLAN

1. Definitions. For the purpose of this rule the following definitions shall apply:

“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, establishing salary ranges, and administering other personnel functions.

“Class title” means the designation given under these rules to a class and to each position allocated to such class.

“Class 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 or illustrative examples of work of positions in the class, enumerates the knowledges, skills, and abilities required for successful performance of the work and states required minimum experience and training for positions in the class.

“Allocation” means the assignment of a position to an appropriate class as determined by the duties, responsibilities, and minimum qualification requirements of the position.

“Reclassification” means the re-allocation of a position from one class to another because of a permanent and material change of the duties of that position.

2. The Commission shall prepare and maintain a list of class titles and class specifications for all positions in the classified service of the civil division and shall allocate all such positions to an appropriate class.

3. Classification of Vacant Positions. The appointing officer shall file a prescribed form with the Commission when a classified position which has or is about to become vacant is to be filled. Such form shall contain a detailed description of the duties and responsibilities of the position to be filled and a statement of suggested minimum entrance qualifications for the position. After an analysis of the position description, the Commission shall allocate the position to an appropriate class, or, if no appropriate class exists, shall create a new class and prepare a class specification for such position.

4. Classification of New Positions. The appointing officer shall file a prescribed form with the Commission when a new position is to be created. Such form shall contain a detailed description of the duties and responsibilities of the position to be filled and a statement of suggested minimum entrance qualifications for the position. After an analysis of the position description, the Commission shall allocate the position to an appropriate class, or if no appropriate class exists, shall create a new class and prepare a class specification for such new class.

5. Reclassification. The appointing officer shall file a prescribed form with the Commission whenever a permanent and material change is made in the duties and responsibilities of any position. Such form shall clearly describe in detail the changes which have been made in the duties of the position. After an analysis of the changes in the duties and responsibilities of the position, the Commission shall allocate the position to an appropriate class, or if no appropriate class exists, shall create a new class and prepare a class specification for such position.

6. Notices and Appeals. Any appointing officer may make application for the classification or reclassification of any position in his department, or any employee in the classified service may apply for a reclassification of his position. Such application must set forth reasons in support of the requested reclassification, and must show changes in the duties and responsibilities of the position since the last determination with respect to its classification. The Commission 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 Commission 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 XXV

PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION
CONCERNING POLITICAL AFFILIATION

No question in any examination or application or other proceeding by the Commission or their 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 Commission and its 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 XXVI

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.
 - 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, Town, or Village. Each School District, each special district, each authority and each community college shall be deemed to be a separate civil division.
 - 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. (1) Permanent Service shall start on that date of the incumbent's original appointment on a permanent basis in the classified service, however, in the case of disable veterans, the date of original permanent appointment is considered to be 60 months earlier than the actual date; while non-disabled veterans are considered to have been appointed 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 85 of the Civil Service Law.
- (2) 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 preceding the original permanent appointment does not count. However, temporary or provisional employment immediately preceded and followed by permanent classified service employment does not interrupt continuous service.
- (4) 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.
- (5) 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. 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 back-date his permanent service if he also happens to be either a veteran or disabled veteran.
- d. 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. 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.
- f. 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. 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 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. The order of suspension among probationary employees shall follow the same principles as that among permanent employees.

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 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. 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. 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 level are being abolished.
- d. When a next lower title has been occupied by means of displacement regardless of when 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 purpose 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 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. 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. 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. 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. Preferred list standing for competitive class employees on or after October 1, 1972 shall be as follows:
 - a. On or 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 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 preferences on the preferred list over all other employees except those disabled veterans and blind employees whose positions were abolished prior to October 1, 1973 with whose names theirs shall be interfiled.
- c. 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 60 months earlier than the actual date, determined in accordance with Section 30 of the General Construction Law.
- d. 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 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. 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 name of all non-veterans whose positions were abolished prior to October 1, 1972.
7. 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.