

ONONDAGA COUNTY
DEPARTMENT OF PERSONNEL

RULES
FOR
CLASSIFIED SERVICE

As Adopted November 8, 1963
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ELAINE L. WALTER
COMMISSIONER OF PERSONNEL

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APPENDIX A
Exempt Positions

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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. "Commissioner" means the Commissioner of Personnel of the County of Onondaga.
2. "Employee" means the incumbent of a position holding the position in accordance with these rules and the Civil Service Law.
3. "Position" means an office or employment involving an aggregation of duties to be performed and responsibilities to be exercised by one person.
4. "Travel reimbursement" means the remuneration of a position which shall include food, lodging, maintenance and travel allowance when such is furnished.
5. "Eligible list" means an official record kept in the Commissioner'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" means any employment or combination of one or more employments in a civil division in which an individual works twenty (20) hours or less, or wherein the employee earns not more than one half (1/2) of the rate assigned to the position if the position has been allocated to a graded salary schedule.
7. "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.
8. "Reassignment" means 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" means, county, town, city, village, school district and special district.
10. "Civil division" shall include any municipality and any governmental board, commissioner, agency or authority in the County of Onondaga, the officers or employees of which receive compensation in whole or in part from the public funds thereof.
11. "Grade" refers to the division of any group or subdivision upon the basis of salary or compensation received.

RULE II

DEPARTMENT OF PERSONNEL

Article XIII of the Onondaga County Charter, as adopted on September 5, 1961, provides as follows:

"The Department of Personnel, headed by a Commissioner with a 6-year term, replaces the Onondaga County Civil Service Commission. The Commissioner exercises powers and performs duties of a county personnel officer and is subject to supervision and control by the State Civil Service Commission as provided in the Civil Service Law."

The Commissioner may appoint subordinates and employees within available appropriations as the Commissioner deems necessary to properly carry out the purposes of these rules and the Civil Service Law and shall fix the duties of these employees. The Department of Personnel shall keep true and accurate minutes of all public hearings and proceedings, which the Commissioner of Personnel is required to conduct.

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 are those listed in Appendix A of these rules and made a part hereof.

RULE IV**NON-COMPETITIVE CLASS**

1. The non-competitive class shall include positions in the classified service for which it is practicable to determine merit and fitness by a qualifying examination, but impracticable to determine relative merit and fitness by competitive examination. (Civil Service Law, Section 42.)
2. 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 Commissioner. A nomination for such an appointment shall be accompanied by an application by the nominee setting forth his qualifications and shall be filled by the appointing authority with the Commissioner. Such appointment shall become effective only after approval by the Commissioner.
3. Positions in the non-competitive class are those listed in Appendix B of these rules and made a part hereof.

RULE V

LABOR CLASS

1. The labor class shall include all unskilled laborers. (Civil Service Law, Section 43.)
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 Commissioner 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 the labor class are those listed in Appendix C of these rules and made a part hereof.

RULE VI

UNCLASSIFIED SERVICE

Positions in the unclassified service are those listed in Appendix D of these rules and made a part hereof. (Civil Service Law, Section 35)

RULE VII**RECRUITMENT OF PERSONNEL**

1. Residence requirements for competitive municipal position.

(a) An applicant must be at the time of examination and for at least one month 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 such municipality is located as determined by the Commissioner. Residence requirements may be suspended or reduced by the Commissioner in cases where recruitment difficulty makes such requirements disadvantageous to the public interest.

(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 at the time of certification be a resident of the municipality in which appointment is to be made.

2. Announcements of competitive examinations.

The public announcement of an examination shall specify the title, salary or salary range, the duties of the position, the minimum qualifications required, the final date for filing applications, the subjects and/or scope of the examination and the relative weights thereof, and such other information as may be deemed necessary. Public notice of such announcements shall be made at least fifteen (15) days before the last date for filing applications. The last date for filing applications shall be at least ten (10) days before the date of examination. The aforementioned ten (10) day period may be waived in cases of "walk-in" and continuous recruitment examinations.

RULE VIII**APPLICATIONS**

1. Applications of candidates for positions in the competitive class and for positions in the non-competitive class must be addressed to the Commissioner at the office of the Commissioner.
2. The Commissioner shall notify each applicant for competitive examination of the disposition of his application after the last date of filing. Approved applicants for competitive examination shall be given notice to appear for examination at least four days before the examination, by mail to the address stated in the application, or one day's notice by telegram.
3. The Commissioner reserves the right to accept or reject, for reasons of lateness, examination applications submitted after the last date for filing.
4. The application of an eligible who is being considered for appointment may be shown to the appointing officer or to his/her 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. Good moral character and habits and a satisfactory reputation shall be requirements for appointment to any position subject to these rules. An 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 of summonses for traffic offenses, may be grounds for disqualification for examination or, after examination, for certification and appointment.
3. The burden of establishing his/her qualifications to the satisfaction of the Commissioner shall be upon the applicant. Any applicant who refuses to permit the Commissioner to investigate matters necessary for the verification of his/her qualifications or who otherwise hampers, impedes or fails to cooperate with the Commissioner in such investigation shall be disqualified 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 the 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 Onondaga County Department of Personnel

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

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 Commissioner 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 insure 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 decentralized examinations, any candidate receiving such notice may inspect his/her examination papers in the office of the Commissioner and in the presence of a designated representative of the Commissioner, 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 Commissioner 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 Commissioner 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 effect the candidate's relative position on the eligible list.

g. There shall be no reviews of examinations conducted on a decentralized 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.

3. Examinations Generally

a. The Commissioner 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 Commissioner.

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 Commissioner to have violated the provisions of this subdivision or an 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. 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/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 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 therefor by the Commissioner.

2. The date of the establishment of a list shall be the date fixed therefor by the Commissioner, and shall be entered on such list. The duration of all eligible lists shall be fixed by the Commissioner 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 Commissioner may, prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four years, provided that eligibles on such 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 Commissioner. The names of persons who failed to receive a passing grade on the examination shall not be disclosed to the public.

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

RULE XII**CERTIFICATION**

1. The Commissioner 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 Commissioner to an appointing officer shall be valid for a period of 60 days from the date of its issuance unless extended by the Commissioner. The Commissioner may, for good cause shown, extend the certification for an additional period of up to 60 days, however, in no case may a certification be valid for a period in excess of 120 days. After the expiration of such period, no appointment shall be made except from a new certification.

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

4. 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 reasons deemed acceptable by the Commissioner. The Commissioner shall enter upon the eligible list 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.

RULE XII, Cont.

6. Whenever a vacancy exists in a competitive class position and an open competitive examination does not result in an eligible list containing the names of at least three persons willing to accept appointment, the Commissioner may permit the appointing authority to nominate a person for non-competitive examination for such position, but no examination shall be required where such nominee has already qualified in an examination of equivalent character within the last four years from the date of nomination. If such nominee shall be certified by the Commissioner as qualified, he may be appointed to fill such vacancy.

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

8. No open-competitive, promotional or preferred eligible list shall be certified for filling a vacancy created by reclassification of an encumbered position where appointment from such list would require the layoff of an employee or the reassignment of an employee to a different geographical location or different department; but this provision shall not apply if the incumbent whose position was reclassified has, following such reclassification, once failed to qualify for permanent appointment to the reclassified 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 the Civil Service Law, the Commissioner 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 Commissioner 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 term.

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 as a requirement possession of a license or certificate in a profession issued by the State of New York, the Commissioner may waive the examination and certify for appointment 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 order to be eligible to enter in an examination for promotion or receive promotion, a person must have been employed in a competitive or non-competitive class position on a permanent basis in a lower grade or equivalent grade, either in the direct line of promotion or in a related or collateral line of promotion as described by the Commissioner of Personnel. The Commissioner shall prescribe a minimum period of such service for eligibility to enter a promotion examination, and may also prescribe a minimum period of such service as a qualification for promotion from the resulting eligible list.

2. Any person who is nominated for non-competitive examination for promotion to a position as provided in Section 52, subdivision 7, of the State Civil Service Law and who fails to pass two successive examinations for such promotion shall not thereafter be eligible for employment in such position, except by appointment or promotion from an eligible list established following competitive examination.

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

4. In accordance with Civil Service Law Section 55-a (4), employees in the service of a civil division who are holding or who have held a position in the non-competitive class pursuant to the provisions of Section 55-a of this chapter are afforded the same opportunity as employees in the competitive class service to take promotional examinations.

RULE XIV

It is the intent of the Commissioner of Personnel that permanent appointments and promotions shall require, as provided in this section, satisfactory completion of a probationary term which shall include a minimum and a maximum period of probation. Such appointments and promotions shall not become permanent prior to satisfactory completion of at least the minimum period and may require satisfactory completion of the maximum period of probation. If the conduct or performance of a probationer is not satisfactory, his or her employment may be terminated at any time after eight weeks and before completion of the maximum period of service.

1. PROBATIONARY TERM

(a) Except as otherwise provided in this section, every permanent appointment from an open competitive eligible list and every original permanent appointment to the non-competitive, exempt or labor class shall be subject to a probationary term of not less than 8 nor more than 52 weeks. Every successive permanent appointment, within the same civil division, from a competitive, non-competitive, exempt or labor class position to either a non-competitive, exempt or labor class position shall be for a probationary term of not less than 8 weeks nor more than 26 weeks.

(b) Except as may be otherwise provided in this section, every permanent appointment from a promotional eligible list from a departmental or interdepartmental examination shall be subject to a probationary term of not less than 8 nor more than 26 weeks.

(c) Every permanent appointment from a promotional list resulting from a departmental or interdepartmental examination admitting non-competitive class employees shall be for a probationary term of not less than 8 or more than 26 weeks.

(d) An appointment or promotion shall become permanent upon the retention of the probationer after his/her completion of the maximum period of service or upon earlier written notice following completion of the minimum period that his/her probationary term is successfully completed. The appointing authority or authorized designee shall send a copy of such notice to the Commissioner.

(e) If the conduct or performance of a probationer is not satisfactory, his/her employment may be terminated at any time after 8 weeks and before completion of the maximum period of service.

(f) The probationer's supervisor shall carefully observe his/her 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/her 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/her representative.

(g) The probationary term assigned to an employee appointed in accordance with Rule XVI(4) shall be served at the time of contingent permanent appointment and not at the time of vacancy.

RULE XIV, CONT**2. TRAINEE APPOINTMENT.**

(a) The probationary term for a trainee appointment shall coincide with the term of training service. If the conduct or performance of the probationer is not satisfactory, his/her employment may be terminated at any time after the completion of a specified minimum period of service and on or before the completion of the term of training service. Such specified minimum period of service, unless otherwise prescribed in these rules or in the announcement of examination, shall be eight weeks

(b) Trainee appointments shall include appointments made to any position entitled "Trainee" and the following: Assessors, Deputy Sheriff (Custody), Deputy Sheriff Custody (Spanish Speaking), Deputy Sheriff (Police), Deputy Sheriff (Police Spanish Speaking), Firefighter, Police Officer, Police Officer (Spanish Speaking).

(c) The probationary term for the position of Deputy Sheriff (Police) and Deputy Sheriff (Police Spanish Speaking) shall be for a minimum of 8 weeks to a maximum of 78 weeks.

3 TRANSFERS: PROBATIONERS.

A probationer shall be eligible for transfer, provided, however, that upon such transfer he/she shall serve a complete probationary period in the new position in the same manner and subject to the same conditions as required upon his/her employment in the position from which transfer is made.

4 TRANSFERS**(a) TRANSFERS TO POSITIONS UNDER DIFFERENT APPOINTING AUTHORITIES OF THE SAME CIVIL DIVISION**

Every transfer from a position under the jurisdiction of one appointing authority of a civil division to a position under the jurisdiction of a different appointing authority in the same civil division shall require a probationary term of 12 weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at the end of such term.

(b) TRANSFERS TO POSITIONS UNDER DIFFERENT APPOINTING AUTHORITIES OF 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 12 weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at the end of such term. The Onondaga County personnel officer shall advise the prospective transferee in writing prior to approval of the transfer that a 12-week probationary term is required and must be successfully completed to obtain permanent status in the position to which transfer is sought. The prospective transferee shall be advised it is his/her responsibility to request a leave of absence from the releasing agency. Unless the prospective transferee obtains a leave of absence, the releasing agency is not required to hold a position to return to should the probationary period not be successfully completed.

(c) The appointing authority, having jurisdiction over the position to which transfer is sought, may, elect to waive the probationary term in (a) or (b) by written notification to the transferee and the civil service agency.

RULE XIV CONT.

5 REINSTATEMENT

(a) An employee who is reinstated to a position after a separation of more than one year, either in his/her former jurisdiction or in another jurisdiction shall serve a new probationary term in the same manner and subject to the same requirements as applied upon the original appointment to such position.

(b) The employee who is reinstated to a position after a separation of less than one year in an agency other than the one in which he/she formerly served shall serve a new probationary term in the same manner and subject to the same requirements as applied upon an original appointment to such position.

6. ABSENCE DURING PROBATIONARY TERM.

Any periods of authorized or unauthorized absence aggregating up to 10 workdays during the probationary term, or aggregating up to 20 workdays, if the probationary term or maximum term exceeds 26 weeks, 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 workdays of his/her absence which, pursuant to this subdivision, are not counted as time served in the probationary term

7. 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 Department of Personnel, after due inquiry, determines that the probationer's service was such that he/she should be given a second opportunity for appointment.

8 RESTORATION TO PERMANENT POSITION

When a permanent competitive class employee is promoted or transferred to a competitive class position or a permanent non-competitive class employee is promoted to a competitive class position in the same Civil Division 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. When a permanent competitive class employee is appointed from an open competitive eligible list to a position in the same department or agency and 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 the employee shall have the right to return to his/her previous position at his/her own election. If the employee elects to return to his/her previous position, written notice must be submitted to his/her present and former department head not less than one week prior to date of anticipated return. 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, CONT.**9. TEMPORARY OR PROVISIONAL SERVICE IN HIGHER LEVEL POSITION**

When an employee who has not completed his/her 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/her 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/her decision in writing as to whether or not service in such higher level position shall be considered as satisfactory probationary service

In the event of an adverse decision by the appointing authority, such probationer at his/her request, shall be returned to his/her lower position for sufficient time to permit him/her to complete his/her probationary term. The employment of such a probationer in his/her lower position shall not be terminated at the end of his/her probationary term on account of unsatisfactory service unless he/she shall have actually served in such position, in the aggregate, at least a period of eight weeks.

10. REMOVAL DURING PROBATIONARY TERM.

Nothing contained in this section shall be construed to limit or to otherwise affect the authority of an appointing authority, at any time during the probationary term, to remove a probationer for incompetency or misconduct, under section 75 of the Civil Service Law or an agreement negotiated between a municipality and an employee organization.

11. POLICE OFFICERS

Notwithstanding any other provision of these rules, the appointment or promotion of a police officer shall not become permanent unless and until he/she has satisfied such requirements as may be applicable to his/her appointment or promotion according to section two hundred nine-q of the general municipal law. If a police officer is promoted to a higher rank for which he/she has met all requirements of eligibility for permanent promotion except training requirements applicable under section two-hundred nine- q of the general municipal law, he/she shall be deemed to be on leave of absence from the lower rank position from which he/she was promoted pending completion of such training. During such period such lower rank position may not be filled except on a temporary basis. In the event of his/her failure to complete such training successfully within the time allowed thereafter, he/she shall be restored to such lower rank position.

Rule XV**SEASONAL AND TEMPORARY APPOINTMENTS**

1. Appointment to seasonal positions in competitive class.

(a) Positions in the competitive class where the nature of service is such that it is not continuous throughout the year, but recurs in each successive year, except as herein otherwise provided, shall be designated as seasonal positions and shall be subject to the provisions of these rules applicable generally to positions in such class.

(b) 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 Commissioner with respect to his physical fitness for the performance of the duties of the position, and may be disqualified for re-employment in the same manner, and for any of the reasons applicable to the disqualification of an eligible on an eligible list resulting from open competitive examination.

(c) The name of any person on such list who is not reached for re-employment shall remain on such list and shall be certified, in the order of the date of his first appointment to such position during subsequent employment seasons; provided, however, that the eligibility for re-employment of any such person shall not continue for a period longer than three years from the date of his separation from such seasonal employment. A seasonal re-employment list shall not be deemed to be a preferred list as provided for in section eighty-one of the civil service law.

2. Temporary appointments may be made in accordance with Section 64 of State 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 permanent appointment nor shall the period of temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.

2. PROVISIONAL OR TEMPORARY APPOINTMENT OF PERMANENT EMPLOYEES.

When a permanent competitive class employee is given a provisional or temporary 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 or contingent permanent basis pending his/her reinstatement thereto upon failure of his/her provisional appointment to mature into permanent appointment.

3. SUCCESSIVE PROVISIONAL APPOINTMENTS.

No provisional employee who has failed three times the examination for permanent appointment shall be given another provisional appointment in the same position classification. No provisional employee who has refused to take an examination for permanent appointment shall be given another provisional appointment in the same position classification. No provisional employee who did not take an examination for permanent appointment and whose absence was not authorized by the Commissioner shall be given another provisional appointment in the same position classification.

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. A probationer whose employment is terminated for unsatisfactory service will be removed from the eligible list. He/she may request that his/her name be restored to the eligible list from which he/she was appointed in accordance with Rule XIV.7.

2. Return of Incumbents: In the event of layoff or the permanent incumbent returns, persons holding positions on a contingent permanent basis shall be displaced before any person 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.

RULE XVI Cont.

3. Preferred Lists: 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 their 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 their 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.

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.

5. Promotion: When a permanent competitive class employee accepts a contingent permanent appointment, 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.

a. All appointments under this rule shall be canvassed as "contingent-permanent." A copy of this rule must be included with the canvass letter.

b. Appointments to contingent permanent positions shall be made by selection of one of the top three candidates on an appropriate eligible list willing to accept a contingent permanent appointment; there will be no 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 vacancies.

c. If a permanent vacancy becomes available in the same title in the department or agency in which the 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.

d. 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.

RULE XVII
TRANSFERS

Upon the written consent of the transferee and of the respective appointing authorities having jurisdiction over the positions to which and from transfer is sought, and subject to the approval of the Commissioner, any individual serving in a competitive class position as a permanent appointee may be permanently appointed to another competitive class position subject to these rules without further competitive examination, provided:

- (a) 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 Commissioner determines that the examinations' scopes and qualifications for the position held, and 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 Commissioner has determined that such appointment is for the good of the service.

RULE XVIII**REINSTATEMENT**

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 Commissioner of Personnel 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 Commissioner of Personnel 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 condition:

- The appointing authority must provide documentation or explanation that demonstrates to the satisfaction of the Commissioner of Personnel that the individual requested to be reinstated possesses 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 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/her former position, or any similar position in the same salary grade for which such list is certified, shall be deemed to be a relinquishment of his/her eligibility for reinstatement, and his/her name shall thereupon 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/her submission of reasons satisfactory to the Commissioner for his/her previous failure or refusal to accept reinstatement.

RULE XVIII, Cont.

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

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

3. A person who has held a position in the competitive class by permanent or probationary appointment and has been separated from his/her position by appointment to a position in the exempt class or in the non-competitive class, or in the unclassified service, and who has served continuously therein from the date of such separation, may with the approval of the Commissioner be reinstated to his/her original position or to a similar position in the competitive class in the same or lower grade without further examination.

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 Commissioner. Where a leave of absence without pay has been granted for a period which aggregates one year, a further leave of absence without pay shall not be granted unless the employee returns to his position and serves continuously therein for three months immediately preceding the subsequent leave of absence. Notice of such subsequent leave of absence shall also be given to the Commissioner. 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 Commissioner 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 the Armed Forces of the United States, providing such a leave of absence is for the purpose of taking courses under the educational benefits provided for in Title 38, United States Code or under a New York State Board of Regents War Service Scholarship, Education Law, Section 614. An employee taking such a leave shall be reinstated to his position, provided he makes application for such reinstatement within sixty days after the termination of his courses of study.

4. A permanent employee who has been granted a leave of absence without pay in accordance with Rule XIX of these Rules shall be entitled to reinstatement at the expiration of the period for which the prescribed leave of absence without pay has been given or at an earlier date at the discretion of the appointing officer. The vacancy created by a leave of absence without pay so given shall not be filled except upon a temporary basis during the period of such leave.

5. Pre-Termination Hearing

Whenever an employee is to be terminated under Section 73 of the Civil Service Law following leave of absence occasioned by ordinary disability, or under Section 71 following exhaustion or termination of Workers' Compensation leave, he/she must be afforded an opportunity for a hearing to contest the decision before such termination is to take effect.

RULE XX
RESIGNATION

1. Resignation in writing.

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

2. Effective date.

If no effective date is specified in a resignation, it shall take effect upon delivery to or filing in the office of the appointing authority. If an effective date is specified in a resignation, it shall take effect on such specified date. However, if a resignation is submitted while the employee is on leave of absence without pay, such resignation, for the purpose of determining eligibility for reinstatement, shall be deemed to be effective as of the date of the commencement of such leave of 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/her termination shall be recorded as a dismissal rather than as a resignation.

3. Withdrawal or amendment.

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

4. Voluntary demotion of permanent competitive employee

An employee who voluntarily elects to relinquish his/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.

RULE XXI**REPORTS OF APPOINTING OFFICERS**

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

1. Extended certifications.

The Commissioner 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 during such stated period, except as to the first payment for services in each fiscal year, and, if required by the Commissioner, at such other times as the Commissioner may from time to time prescribe. Nothing herein shall be construed to prevent or preclude the Commissioner from terminating or rescinding a certification at any time by giving notices 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 Commissioner requires further information or time to enable him/her to make a final determination thereon, the Commissioner may certify such person temporarily pending such final determination. In such event the Commissioner shall immediately request the necessary additional information from the appointing authority, who shall furnish it forthwith. If such information is not furnished promptly, or if the Commissioner finds, following receipt of such information, that the employment of such person is not in accordance with the law and rules, the Commissioner 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 Commissioner 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 Commissioner shall prepare and maintain a classification specification for each class in the competitive, non-competitive and labor jurisdictional classes of the civil divisions under its jurisdiction.

3. Classification of vacant positions. The appointing officer, when requested by the Commissioner, shall file a prescribed form with the Commissioner 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 Commissioner 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 Commissioner 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 Commissioner 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.

RULE XXIII, Cont.

5. Reclassification. The appointing officer shall file a prescribed form with the Commissioner 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 Commissioner 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. Notice and appeals. Any appointing officer may make application for the classification or reclassification of any position within his/her department, or any employee in the classified service may apply for a reclassification of his/her 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 Commissioner 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. The appointing officer or affected employee may submit facts in writing with respect to the change in classification and shall be afforded reasonable opportunity to do so. The Commissioner 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 Commissioner or his 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 Commissioner and his 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 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.

(b) Next lower occupied title shall mean the title in direct line of promotion immediately below the title from which the incumbent is suspended or demoted, unless no one is serving in that title in that layoff unit, in which case it shall be the closest lower title in direct line of promotion in that layoff unit in which one or more persons do serve.

(c) Layoff unit shall mean each department of a County, City, Town, Village, each School District and each special district. Authorities and community colleges shall be deemed to be separate Civil Divisions.

(d) Satisfactory service shall mean service by an employee during which time the employee did not receive an "Unsatisfactory" performance rating and was not found guilty of misconduct or incompetency pursuant to Section 75 of the Civil Service Law which resulted in the imposition of any of the following penalties upon such employee:

(i) dismissal from the service; or,

(ii) suspension without pay for a period exceeding one month; or,

(iii) demotion in grade and title.

(e) (i) Permanent service shall start on that date of the incumbent's original appointment on a permanent basis in the classified service, however, in the case of disabled 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.

(ii) A resignation followed by a reinstatement or reappointment more than one year subsequent to the resignation constitutes a break in service. The original appointment date is to be determined from the date of reemployment, the prior service would not count.

(iii) Temporary or provisional service 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.

RULE XXV, Cont.

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

(v) If an employee was covered-in to a classified position upon acquisition by a civil division of any agency 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) Blind persons may not back-date their permanent service if they also happen to be either a veteran or disabled veteran.

(d) Persons are considered blind if they are 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, which 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 position.

(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 their 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.

RULE XXV, Cont.

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, displace 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 then the employee so refusing 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 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 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 the employee is retreating need not have been in the same layoff unit as the one from which the employee was displaced.

(d) An employee may also displace by retreat to a position in a title he/she last served in on a permanent basis although he/she had intervening service in other titles 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.

RULE XXV, Cont.

5. An employee who refuses to accept an appointment offered 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 and after October 1, 1972, shall be as follows:
- (a) On and after October 1, 1972, those employees whose positions were abolished prior to that date and who therefore had their standing on the preferred list determined by the date of their original appointment on a permanent basis in the competitive class shall retain among themselves such preferred list standing including the preferences to which they were entitled as blind, disabled veterans, and non-disabled veterans.
- (b) Blind employees whose positions are abolished on or after October 1, 1972, shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service, whether or not they are also disabled veterans or non-disabled veterans; provided however, that the blind shall be granted absolute preference on the preferred list over all other employees except those disabled veterans and blind employees whose positions were abolished prior to October 1, 1972, with whose names theirs shall be interfiled.
- (c) Disabled veterans 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 a preferred list with the names 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.