

Oneida County Rules

for the Classified Civil Service



February 13, 2018

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RULES FOR THE CLASSIFIED

CIVIL SERVICE

OF ONEIDA 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 Oneida 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 Oneida County as well as the towns, villages, school districts and special districts therein.

These rules may be amended by the Commissioner of Personnel 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 herein after mentioned, whenever used in these rules, shall be construed as follows:

1. "Commissioner of Personnel" means the personnel officer of Oneida County. (CSC 10/22/96)
2. "Employee" means the incumbent of a position appointed to the position in accordance with these rules and the Civil Service Law.
3. "Position" means an aggregation of duties to be performed and responsibilities to be exercised by one person in a civil division.
4. "Eligible List" means an official record established and maintained by the Commissioner of Personnel as a public record which contains the names of those persons who have successfully completed an examination, listed in order of their final ratings from the highest to the lowest rank.
5. "Part-time Employment" means any employment or combination of one or more employments in a civil division in which an individual works fifty percent or less of the time prescribed as the standard work week by the governing body or other appropriate authority of the civil division or 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 or if not assigned to a salary schedule the employee earns fifty percent or less of the entry level salary. (CSC 5/16/90)
6. "Transfer" means the change, without further examination, of a permanent employee from a position under the jurisdiction of one appointing authority to a similar position under the jurisdiction of another appointing authority, or to a position in a different title under the jurisdiction of the same appointing authority. (CSC 3/15/94)
7. "Reassignment" means the change, without examination, of a permanent employee from one position to another similar position in the same title under the jurisdiction of the same appointing authority.
8. "Civil Division" means each county, town, city, village, school district, community college, public authority, or special district.

Formatting changes to Rule I

(CSC 9/11/06)

RULE II
ORGANIZATION

The organization of Oneida County utilizes a Commissioner of Personnel. The Commissioner of Personnel may appoint a secretary, and such other subordinates and employees within available appropriations as he/she may deem necessary or proper to carry out the purposes of these rules and the law. The Commissioner of Personnel shall fix the duties of these employees. The Commissioner of Personnel shall keep true and accurate minutes of public meetings and proceedings, which shall be open to public inspection. (CSC 10/22/96)

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

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 Commissioner of Personnel. A nomination for such an appointment shall state the qualifications of the nominee and shall be filed by the appointing authority with the Commissioner of Personnel. Such appointment shall become effective only after approval by the Commissioner of Personnel.
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 Commissioner of Personnel 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 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. (CSC 10/22/96)

RULE VII
RECRUITMENT OF PERSONNEL

1. Residence requirements for municipal positions.

a. An applicant must at the time of examination and for at least one month immediately prior thereto be a resident of the municipality in which appointment is to be made or any reasonable combination of municipalities both in and outside of New York State contiguous to the municipality in which appointment is to be made. Residence requirements may be suspended or reduced by the Commissioner of Personnel in cases where recruitment difficulty makes such requirements disadvantageous to the public interest. (CSC 06/21/04)

b. When preference in certification is given to residents of a municipality pursuant to subdivision 4-a of Section 23 of the Civil Service Law, an eligible must have been a resident of such municipality for at least one month prior to the date of certification in order to be included in a certification as a resident of such municipality and must be a resident of such municipality at the time of appointment. (CSC 06/21/04)

2. Announcement of examinations.

The public announcement of an open-competitive examination shall specify the application fee and waivers, if any, the title, the duties of the position, the minimum qualifications required, the salary or salary range if known, the issue date, the final date for filing applications, the subjects or scope of the examination and the relative weights thereof, post offer of employment medical requirements, special testing requirements and religious observance arrangements and, if known, the date and place of the examination. Public notice of open-competitive examinations shall be made at least twenty-five 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 not less than ten days before the date of the examination. (CSC 06/21/04)

RULE VIII
APPLICATIONS

1. Receipt and Disposition of Applications

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

 b. The burden of establishing qualifications to the satisfaction of the Commission shall be upon the applicant.

 c. The Commissioner of Personnel shall notify applicants of the disposition of their applications. Applicants for competitive examination shall be given notice of their approval or disapproval at least four days before the examination.

2. Release of Application Information

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

Formatting changes to Rule VIII

(CSC 9/11/06)

RULE IX
DISQUALIFICATION

1. Notification of Disqualification

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

2. Verification of Qualifications

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

3. Disrespect for Processes of Law

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

4. Character and Reputation

 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.

Formatting changes to Rule IX

(CSC 9/11/06)

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 Commissioner of Personnel 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 provision of the rules and regulations of the State Civil Service Commission and Department dealing with the rating of examinations shall apply.

2. 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 Personnel Officer.

(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 Personnel Officer to have violated the provisions of this subdivision or any similar provision of the rules of any other civil service jurisdiction within the State of New York shall be disqualified from appointment to the position for which the examination is being held, and may be disqualified from being a candidate for any civil service examination for a period of five years. (CSC 3/15/94)

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RULE X - EXAMINATIONS continued:

3. For examinations prepared and rated by the Commissioner of Personnel, 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/her final rating and, if successful, of his/her relative position on the eligible list established as a result of the examination. Any candidate receiving such notice, or his/her duly authorized representative, may inspect his/her examination papers in the office of the Commissioner of Personnel and in the presence of a designated representative of the Commissioner of Personnel, provided he/she makes request for such inspection, in writing, within the period of ten days after the date of the postmark of such notice. The application and examination papers of a candidate shall be exhibited only to the candidate or his/her 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 Commissioner of Personnel from his/her 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/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 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.

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RULE X - EXAMINATIONS continued:

(c) The Commissioner of Personnel may at any time during the life of an eligible list, resulting from an examination prepared and rated by the Commissioner of Personnel, 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

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 therefore by the Commissioner of Personnel.

2. The date of the establishment of a list shall be the date fixed therefore by the Commissioner of Personnel, and shall be entered on such list. The duration of all eligible lists shall be fixed by the Commissioner of Personnel 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 of Personnel may, prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four years, provided that eligibles on such list are notified in writing of the extension of the eligible list. (CSC 10/22/96)

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

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

RULE XII
CERTIFICATION FOR APPOINTMENT

1. Appropriate Eligible List Determination/Certification

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

2. Duration of Certification

A certification issued by the Commissioner of Personnel to an appointing officer shall be valid for a period of sixty days from the date of its issuance. After the expiration of such sixty-day period, no appointment shall be made except from a new certification. (ST CSC 3/15/94)

3. Failure to Respond to a Canvass Inquiry

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

4. Certification Declination

The name of the person declining appointment shall be eliminated from further certification from the eligible list unless declination is for one or more of the following reasons: (a) insufficiency of compensation offered when below minimum of grade of the position for which the examination was held; (b) geographical location of employment; (c) temporary inability, physical or otherwise, which must be satisfactorily explained by the eligible in writing; (d) other reason deemed acceptable by the Commissioner of Personnel. The Commissioner of Personnel shall enter upon the eligible list the reasons for its action in such cases.

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RULE XII - CERTIFICATION FOR APPOINTMENT-continued

5. Rule of Three

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

6. Nomination to Fill Vacancy After Open-Competitive Examination

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. Declination for Salary

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

8. Restriction on Certification for Reclassified Position

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

Title/Formatting changes to Rule XII

(CSC 9/11/06)

RULE XIII
PROMOTIONS

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

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

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

RULE XIV
PROBATIONARY TERM

1. Probationary Term

a. Except as otherwise provided in these rules, every permanent appointment from an open-competitive list and every permanent appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight (8) weeks nor more than twenty-six (26) weeks.

i. Probationary term for Caseworker, Correction Officer, Deputy Sheriff Civil, Deputy Sheriff Patrol, Dispatcher Sheriff, Personnel Technician I, Police Dispatcher, Police Officer, Public Safety Telecommunicator, Senior Public Safety Officer, and Social Welfare Examiner shall be for a term of not less than eight (8) weeks nor more than fifty-two (52) weeks. (CSC 5/13/14)

b. The probationary term for a Trainee position, in which an appointee is required to serve a specified training term, shall not be less than twelve (12) nor more than fifty-two (52) weeks.

c. Every permanent appointment from a promotion eligible list resulting from a departmental or interdepartmental examination shall be for a probationary term of not less than four (4) weeks nor more than twelve (12) weeks. (CSC 03/27/00)

i. Probationary term for Personnel Technician I, Senior Caseworker, Case Supervisor-Grade B, Case Supervisor-Grade A, Senior Public Safety Officer, Social Welfare Examiner, Senior Social Welfare Examiner, Principal Social Welfare Examiner, Head Social Welfare Examiner, Chief Social Welfare Examiner, Deputy Sheriff Patrol Corporal, Deputy Sheriff Patrol Sergeant, Deputy Sheriff Patrol Lieutenant, Deputy Sheriff Patrol Captain, Deputy Sheriff Civil Sergeant, Deputy Sheriff Civil Lieutenant, Deputy Sheriff Civil Captain, Deputy Sheriff Lieutenant (Technical), Deputy Sheriff Sergeant (Technical), Correction Officer Sergeant, Correction Officer Lieutenant, and Correction Officer Captain shall be for a term of not less than eight (8) weeks nor more than fifty-two (52) weeks. (CSC 5/13/14)

d. An appointment shall become permanent upon the retention of the probationer after his/her completion of the maximum period of probation or upon earlier written notice following completion of the minimum period of probation that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Commissioner of Personnel.

e. If the conduct or performance of a probationer is not satisfactory, his/her employment may be terminated at any time after the completion of the minimum period of probation, and on or before completion of the maximum period of probation in the manner as prescribed in these rules.

continued...

RULE XIV - PROBATIONARY TERM – continued:

2. Transfers

a. Transfers to Positions in the Same Civil Division

Every transfer from a position to another in the same civil division shall require a probationary term of not less than a minimum of four (4) weeks nor more than twelve (12) weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at any time after the completion of the minimum period of probation, and on or before the completion of the maximum period of probation.

b. Transfers to Positions in Different Civil Divisions

Every transfer from a position in one civil division to a position in another civil division shall require a probationary term of not less than a minimum of four (4) weeks up to a maximum of twelve (12) weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at any time after the completion of the minimum period of probation, and on or before, completion of the maximum period of probation.

The Commissioner of Personnel shall advise the prospective transferee in writing prior to approval of the transfer that a four (4) to twelve (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. Waiver

The appointing authority having jurisdiction over the position to which transfer is sought, may elect to waive the probationary term in (2a) or (2b) by written notification to the transferee and the Commissioner of Personnel.

3. Restoration to a Permanent Position

When a permanent employee is promoted or transferred to a position in which he/she is required to serve a probationary term, the position vacated by him/her shall not be filled, except on a temporary or contingent permanent basis, during such probationary term. At any time during the probationary term the employee shall have the right to return to his/her previous position at his/her own election.

If the conduct or performance of the probationer is not satisfactory, he/she shall be restored to his/her former permanent position as provided in these rules, prior to the completion of the maximum probationary term.

continued...

RULE XIV - PROBATIONARY TERM – continued:

4. Absence During Probationary Term

Any periods of authorized or unauthorized absence aggregating up to ten (10) work days during the probationary term, may, in the discretion of the appointing authority, be considered as time served in the probationary term. Any such periods of absence 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/her absence which, pursuant to this subdivision, are not counted as time served in the probationary term.

5. Report on Probationer's Service

The appointing authority and/or supervisor of a probationer will carefully evaluate the probationer's work performance of the duties and responsibilities of the position 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, 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 representatives.

6. Restoration to Eligible List

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

7. Temporary, Provisional or Contingent Permanent Service in Higher Level Position

When an employee who has not completed his/her probationary term is appointed on a temporary, provisional or contingent permanent basis to a higher level position, the period of temporary or provisional service rendered by such employee in the higher level position may, in the discretion of the appointing authority, be considered as satisfactory probationary service in his/her lower position and may be counted as such in determining the satisfactory completion of the probationary term.

continued...

RULE XIV - PROBATIONARY TERM – continued:

At any time after the expiration of the minimum period of the probationary term, or the entire probationary term, the appointing authority shall, on request of such probationer, furnish his/her decision in writing as to whether or not service in such higher level position shall be considered as satisfactory probationary service. In the event of an adverse decision by the appointing authority, such probationer at his/her request, shall be returned to his/her lower position for sufficient time to permit him/her to complete his/her probationary term.

The employment of such a probationer in his/her lower position shall not be terminated at the end of his/her probationary term on account of unsatisfactory service unless he/she shall have actually served in such position, in the aggregate, at least the minimum period specified for such probationary term, or the entire probationary term.

8. Removal During Probationary Term

Nothing contained in this rule shall be construed to limit or otherwise affect the authority of an appointing authority pursuant to Section 75 of the Civil Service Law, or applicable negotiated disciplinary procedures, at any time during the probationary term, to remove a probationer for incompetence or misconduct.

9. Probationary Term Upon Reinstatement

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

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

10. Leave of Absence for Police Supervisors

Notwithstanding any other provision of these rules, if a Police Officer is promoted to a higher rank for which he/she has met all requirements of eligibility for permanent promotion except training requirements applicable under Section 209-q.1-a of the General Municipal Law, he/she shall be deemed to be on leave of absence from the lower rank position from which he/she was promoted pending completion of such training. During such period, such lower rank position may not be filled except on a temporary or contingent permanent basis. In the event of his/her failure to successfully complete such training within the time allowed therefore, he/she shall be restored to such lower rank position.

RULE XV
TRAINEE AND SEASONAL APPOINTMENTS

1. Trainee Appointment

The Commissioner of Personnel may require that permanent appointment or promotion to designated positions shall be conditioned upon the satisfactory completion of a term of service as a trainee in such a position or in an appropriate, lower training title or the completion of specified training or academic courses, or both. The period of such term of training service shall be prescribed by the Commissioner of Personnel. Upon the satisfactory completion of such training term, and of specified courses if required, an appointee shall be entitled to full permanent status in the position for which appointment was made. Any appointment as a trainee shall be subject to such probationary period as is prescribed in these rules. The employment of such person may be discontinued if his/her conduct, capacity or fitness is not satisfactory at any time between the minimum and maximum period of probationary term for traineeship. If the trainee fails, refuses to pursue, or does not continue such training or academic courses satisfactorily as may be required, his/her employment may be terminated at any time during the traineeship.

2. Seasonal Appointment 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 position in the order in which their names appear on such list. Any such person may be re-examined by the Commissioner of Personnel with respect to his/her 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.

continued...

RULE XV - TRAINEE AND SEASONAL APPOINTMENTS continued

(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/her 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/her separation from such seasonal employment. A seasonal re-employment list shall not be deemed to be a preferred list as provided for in Section 81 of the Civil Service Law.

Title/Formatting changes to Rule XV

(CSC 9/11/06)

RULE XVI
**EFFECT OF TEMPORARY OR PROVISIONAL
APPOINTMENT ON STATUS OF APPOINTEE**

1. Effect of temporary appointment on eligibility for permanent appointment.

Except as provided in subdivision 4 of this rule, 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.

When a temporary appointment to a permanently encumbered position is made from an eligible list and the temporary appointee is at the time of such appointment reachable on such eligible list he/she shall, at such time that the permanent incumbency is vacated, be eligible for permanent appointment to the same position or another position in the same class notwithstanding the fact that the eligible list on which his/her name originally appeared may have expired.

2. Provisional appointment of permanent employee.

When a permanent competitive class employee is given a provisional appointment to another competitive class position in the same department or agency, the position thus vacated by him/her shall not be filled on other than a temporary basis pending his/her reinstatement thereto upon the failure of his/her provisional appointment to mature into permanent appointment.

3. Successive Provisional Appointments.

No provisional employee who has twice failed an examination for permanent appointment or has refused to take such examination shall be given another provisional appointment in the same position, provided, however, that where an examination fails to produce any qualified eligibles, or where an eligible list is depleted of all eligibles immediately following its establishment, such employee at the discretion of the Commissioner of Personnel, may be given a third and final provisional appointment in the same position.

continued...

RULE XVI - TEMPORARY/PROVISIONAL APPOINTMENTS continued:

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".

continued...

RULE XVI - TEMPORARY/PROVISIONAL APPOINTMENTS continued:

(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 will be no recanvassing of the eligible list in the event the contingent permanent position becomes unencumbered. Acceptance of a contingent permanent appointment will remove the person's name from the eligible list for any future contingent permanent or permanent vacancies within the department or agency in which the contingent permanent appointment was made.

(d) If a permanent vacancy becomes available in the same title in the department, agency, or jurisdiction of the same appointing authority 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. Transfer of eligibility for permanent appointment.

Upon the written request of an individual and the prospective appointing authority, and subject to the approval of the Commissioner of Personnel, 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) (i) The Commissioner of Personnel determines that the examinations' scopes and qualifications for the position held and to which appointment is sought are identical; OR

(ii) 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 of Personnel has determined that such appointment is for the good of the service. (CSC 5/16/90)

RULE XVIII
REINSTATEMENT

1. Reinstatements

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

All reinstatements are subject to the following terms and conditions:

i. The prospective appointing authority must request approval from the Commissioner of Personnel to reinstate an individual.

ii. A reinstatement may not be approved to a position for which a preferred list exists containing the name of an eligible willing to accept appointment.

iii. 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.

iv. 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 conditions:

i. 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.

ii. If the position to which reinstatement is sought requires successful completion of medical and/or physical agility tests for original appointment, the individual being reinstated must satisfy these criteria immediately prior to reinstatement.

For the purposes of applying this rule, the following provision shall apply:

i. In computing the one year period within which a person may be reinstated after the resignation, any time spent in active service in the military or naval forces of the United States or of the State of New York, and any time served in another position in the civil service of the same municipality shall not be considered.

continued...

RULE XVIII - REINSTATEMENT-continued

b. An employee that is laid off from the civil service of a municipality shall be eligible for reinstatement in the same manner as an employee who had resigned.

2. Refusal or Failure to Accept Reinstatement From a Preferred List

a. Preferred list eligibility shall continue for four years.

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

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

d. The restoration of the name of a person to a preferred list, or his/her restoration to eligibility for certification to positions in a lower salary grade than his/her former position, shall not invalidate or in any manner adversely affect any appointment, promotion, reinstatement or demotion previously made to any position to which such person would otherwise have been eligible for reinstatement from such preferred list.

Formatting changes to Rule XVIII

(CSC 9/11/06)

RULE XIX

LEAVE OF ABSENCE

1. Leave of Absence Without Pay

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

2. Leave for Supervisory Police Personnel

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

3. Veterans' Educational Leave

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

Formatting changes to Rule XIX

(CSC 09/11/06)

Changes made to reflect Civil Service Model Rules
Per MSD-CL-41-77

(CSC 06/10/08)

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 absence notwithstanding the provisions of this section, when charges of incompetence 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, canceled 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 of Personnel 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 official action in each case, shall report to the Commissioner of Personnel 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/her by a person eligible therefore, 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. Certification required prior to payment

- (a) No person shall receive salary or compensation until the Commissioner of Personnel has certified his or her employment to be in compliance with the provisions of the Civil Service Law and these Rules.
- (b) The Commissioner of Personnel shall not certify the name of any person employed in a manner that does not comply with the provisions of the Civil Service Law and these Rules.

2. Extended certification

- (a) The Commissioner of Personnel may certify the employment of a person for a limited or extended period. No further certification shall be necessary for the payment of salary or compensation to such person as long as his or her status, title, and salary grade remain unchanged during the period of the certification granted.
- (b) The Commissioner of Personnel shall require certification of the full payroll of every civil division under its jurisdiction at least once every fiscal year, and shall require such certifications according to the following schedule:

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

- (c) The Commissioner of Personnel may, at any time, require any civil division under its jurisdiction to submit payrolls or accounts for certification in accordance with §100(1) of the Civil Service Law.
- (d) Annual certifications provided by the Commissioner of Personnel shall be valid for a period of no more than 12 months following the scheduled date of certification established in these Rules. Certifications provided at any other time during the year shall be valid for a period not to exceed the next scheduled certification established in these Rules.

RULE XXII

**CERTIFICATION OF
PAYROLLS p.2**

3. Refusal or termination of certification

- (a) The Commissioner of Personnel shall investigate any discrepancies between the payroll and the official roster and any other instances where the Commissioner of Personnel finds the employment of a person may be in violation of the law and these Rules.

- (b) In any case where the Commissioner of Personnel finds satisfactory evidence that the employment of a person is in violation of law and these Rules, or the Commissioner of Personnel finds satisfactory evidence of intent to evade the provisions of law or these Rules in regard to the employment of any person, the Commissioner of Personnel shall refuse certification of the person and terminate any certification of the person previously made and then in force.

- (c) Any refusal, termination, or revocation of a certification of any person shall be communicated in writing to the appropriate fiscal or disbursing officer.

Changes made to reflect Civil Service Model Rules
Per MSD-PAR-01-08

(CSC 06/10/08)

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 each 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 knowledge, 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 of Personnel 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 Commissioner of Personnel 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 of Personnel 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.

continued...

RULE XXIII - CLASSIFICATION PLAN continued:

4. Classification of New Positions. The appointing officer shall file a prescribed form with the Commissioner of Personnel 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 of Personnel 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 Commissioner of Personnel 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 of Personnel 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 in 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 of Personnel 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 Commissioner of Personnel 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 of Personnel or his/her examiners shall be so framed as to elicit information concerning, nor shall any other attempt be made to ascertain the political opinions or affiliations of any applicant, competitor or eligible, and all disclosures thereof shall be discountenanced by the Commissioner of Personnel and his/her examiners. No discrimination shall be exercised, threatened or promised against or in favor of any applicant, competitor or eligible because of his/her political opinions or affiliation.

RULE XXV
LAYOFF

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 he/she did not receive an "Unsatisfactory" performance rating and was not found guilty of misconduct or incompetence 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.

continued...

RULE XXV - LAYOFF continued:

(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 re-employment, 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.

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

(v) If an employee was covered-in to a classified position upon acquisition by a civil division of an 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) A blind person may not back date his/her permanent service, if he/she also happens to be either a veteran or disabled veteran.

(d) A person is considered blind if he/she 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.

continued...

RULE XXV - LAYOFF continued:

(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/her 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/herself suspended or displaced, displaces an employee in the next lower occupied title in direct line of promotion in the same layoff unit having the least seniority if the employee who seeks to displace has greater retention standing.

(b) 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/she must be laid off. This, however, does not protect the junior incumbent from being compared in retention standing with other incumbents, if other positions at the higher level are being abolished.

continued...

RULE XXV - LAYOFF continued:

(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 purposes of this section.

4. Retreat.

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

(b) An employee may retreat by displacing the incumbent with the least retention right who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in the title from which he/she is currently suspended or displaced. Retreat may only occur where the position in the title formerly held by the displacing incumbent is occupied in the competitive class, in the same layoff unit, and at a lower salary grade; the service of the displacing incumbent while in the former title must have been satisfactory, and the junior incumbent must have less retention standing than the displacing incumbent.

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

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

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.

continued...

RULE XXV - LAYOFF continued:

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 the preferred list with the names of all non-veterans whose positions were abolished prior to October 1, 1972.

continued...

RULE XXV - LAYOFF continued:

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.

RULE XXVI
PRE-TERMINATION HEARING

1. 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 Worker's Compensation leave, he/she must be afforded an opportunity for a hearing to contest the decision before such termination is to take effect.