

CIVIL SERVICE COMMISSION

SANDY LAPERA, CITY CLERK
CITY OF ONEIDA

New York State Civil Service Commission

The **New York State Civil Service Commission** is a New York state government body^[1] that adopts rules that govern the state civil service; oversees the operations of municipal civil service commissions and city and county personnel officers; hears appeals on examination qualifications, examination ratings, position classifications, pay grade determinations, disciplinary actions, and the use of preferred lists; and requests to continue the employment of individuals who are retired.^{[2][3]} Its regulations are compiled in title 4 of the New York Codes, Rules and Regulations.^[citation needed]

It is composed of three members: the President of the Commission, who is also the head of the **Department of Civil Service**, and two commissioners.^{[1][2]} Members are appointed by the Governor with the advice and consent of the Senate for terms of six years, and not more than two of the three can be members of the same political party.^{[4][1][2]}

**Rules for the
Classified Civil Service
Of the
City of Oneida**

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 the City of Oneida 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 the City of Oneida as well as the special districts therein. These rules may be amended by the Commission after public hearing and subject to the approval of the State Civil Service Commission.

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RULE 1 DEFINITIONS

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

- 1) "Commission" means the Civil Service Commission of the City of Oneida.
- 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) "Compensation" means the remuneration of a position and shall include food, lodging, maintenance and communication when the same is furnished.
- 5) "Eligible List" means an official record kept in the Commission's office as a public record which contains names of those persons who have successfully completed examinations, listed and ranked in order of their final rating from the highest to lowest rank.
- 6) "Part-time employment" means any employment or a combination of one or more employments in a civil division in which an individual works 20 hours or less a week.
- 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.
- 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 city or special district.

RULE II ORGANIZATION OF THE COMMISSION

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

RULE III EXEMPT

1. Positions in the exempt class are those for which competitive or non-competitive examinations or other qualifications or 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 Commission. A nomination for such an appointment shall state the qualifications of the nominee and shall be filled by the appointing authority with the Commission. Such appointment shall become effective only after approval by the Commission.
2. Positions in the non-competitive class shall be listed in Appendix B of these rules and made a part hereof.

RULE V LABOR CLASS

1. The Labor class shall include unskilled laborers
2. A position in the labor class may be filled by the appointment of any person selected by the appointing officer of the agency where a vacancy exists, and the Commission may require applicants for employment in the labor class to qualify in such tests of their fitness for employment as may be deemed practicable.
3. Positions in 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.

RULE VII RECRUITMENT OF PERSONNEL

1. Residence requirements for municipal positions.

(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 appointment is to be made or contiguous to the municipality in which such municipality is located as determined by the Commission. Residence requirements may be suspended or reduced by the Commission in cases where 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 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 time of appointment.

2. Announcement of examinations.

The public announcement of an examination shall specify the application fee, if any, the title, salary or salary range, the duties of the position, the minimum qualifications required, the final date for filing applications, the subject or scope of the examination and the relative weights thereof, and the date and place of the examination. Public notice of open competitive examination shall be made at least twenty-five days before the date of the examination and must be conspicuously posted in a public place for fifteen days. The last day for filing applications shall be at least ten days before the date of the examination.

RULE VIII APPLICATIONS

- 1. Applications of candidates for positions in the competitive class and for positions in the non-competitive class must be addressed to the Commission at the office of the Commission.**
- 2. The Commission shall notify each applicant of the disposition of his application. Approved applicants for competitive examination shall be given notice of their**

approval at least four days before the examination, by mail to the address stated in the application, or one day notice by telegram.

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

RULE IX DISQUALIFICATION

1. Good moral character and habits and a satisfactory reputation shall be required for appointment to any position subject to these Rules. Any applicant who is found to lack such requirements shall be disqualified for examination, or after examination, for certification and appointment.
2. A record of disrespect for the requirements and processes of law, including repeated traffic offenses or disregard 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 qualifications to the satisfaction of the Commission shall be upon the applicant. Any applicant who refuses to permit the Commission to investigate matters necessary for the verification of his qualifications or who otherwise hampers, impedes or fails to cooperate with the Commission in such investigation shall be disqualified for examination or, after examination, for certification and appointment.

RULE X EXAMINATIONS

1. The marking of each competitor's examination shall be made on the scale of 100, which maximum shall represent the best performance possible, expected or attained, and 70 shall represent a performance meeting the minimum needs of the position to be filled. The Commission may, after the announcement of an examination is made, 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 arrangement shall be given in the instructions on the written examination. Where the written test is prepared and rated by the State Civil Service Commission in accordance with Section 23, subdivision 2 of the Civil Service Law, the provisions of the rules and regulations of the State Civil Service Commission and Department dealing with the rating of examinations shall apply.

2. The Commission shall adopt a system to conceal the identity of the candidates' papers in a written examination until such written examination has been rated.
3. For examinations prepared and rated by the Commission, applications and examination records and papers of candidates shall be preserved until at least six months after the expiration of the eligible list resulting from such examination, but in no event may records be destroyed except in accordance with the policies of the State Commissioner of Education and the State Civil Service Commission. Whenever an oral test shall be prescribed as part of an examination, a stenographic or recording device record of all the questions and answers shall be made a part of the examination records.
4. Every candidate in an examination shall be notified of his final rating and, if successful, of his relative position on the eligible list established as a result of the examination. Any candidate receiving such notice, or his duly authorized representative, may inspect his examination papers in the office of the Commission and in the presence of a designated representative of the Commission provided he makes request for such inspection in writing within the period of ten days after the date of the postmark of such notice. The application and examination papers of a candidate shall be exhibited only to the candidate or his duly authorized representative designated as such in writing. The application of an eligible who is being considered for appointment may be shown to the appointing officer.
5. (a) A candidate who wishes to appeal to the Commission from his rating in one, or more, or all of the subjects of an examination must submit such appeal in writing within twenty days after the earliest date on which his examination papers were made available for his inspection. Such appeal must show that a manifest error was made in the original rating. Such appeal shall be considered as opening all of the candidate's papers for review, whether resulting in a higher or lower average standing. No change in rating shall be made as a result of an appeal unless it shall affect the candidate's relative position on the eligible list.

(b) For examination prepared and rated under Section 23 (2) of the Civil Service Law, the State Civil Service Commission shall have sole and exclusive authority to correct any errors in rating upon appeal or otherwise. The review of papers by candidates and the filing of appeals in such examinations shall be governed by the rules and regulations of the State Civil Service Commission and Department.

(c) The Commission may, at any time during the life of an eligible list resulting from an examination prepared and rated by the Commission, correct any clerical or computational errors in the ratings of candidates who compete 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 was examined and his name shall be entered on the eligible list in the order of his final rating; but if two or more eligibles receive the same final rating in the examination, they shall be ranked in accordance with such uniform, impartial procedure as may be prescribed therefore by the Commission.
2. The date of the establishment of a list shall be the date fixed therefore by Commission resolution, and shall be entered on such list. The duration of all eligible lists shall be fixed by Commission resolution prior to the establishment of such lists, but shall not be less than one nor more than four years. The date of establishment of a list and its duration shall be given to all successful candidates at the time when notice of standing on the eligible list is given to such candidates. Where the duration of an eligible list is fixed at less than four years, the Commission may, by the resolution, prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four years, provided that eligibles on such list are notified in writing of the extension of the eligible list.
3. Eligible lists shall be open to public inspection at the office of the Commission. The names of persons who failed to receive a passing grade on the examination shall not be disclosed to the public.
4. The Commission shall have power in its discretion to correct any error and amend any eligible list where it appears that an error has been made. Commissions shall have power to revoke any eligible list where the provisions of these rules were not properly or sufficiently carried out; provided, however, that an eligible list shall not be revoked except after notice and an opportunity to be heard has been given to all persons whose names appear thereon. The reasons for such action shall be recorded in the minutes of the Commission and reported to the State Civil Service Commission.

RULE XII CERTIFICATION

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

2. A certification issued by the Commission to an appointing officer shall be valid for a period of 30 days from the date of its issuance. After the expiration of such 30-day period, no appointment shall be made except from a new certification.

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 four business days after the mailing of such canvass or offer, or before the end of the next succeeding business day if such canvass or offer is sent to him by telegram, he may be considered ineligible for purposes of making selection for such particular appointment.

4. The name of the person declining appointment shall be eliminated from further certification from the eligible list unless declination is for one or more of the following reasons:

- (a) Insufficiency of compensation offered when below minimum of grade of the position for which the examination was held;
- (b) Location of employment.
- (c) Temporary inability, physical or otherwise, which must be satisfactorily explained by the eligible in writing.

The Commission 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 lists as provided in Rule XI.

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

7. Whenever one or more eligibles shall have declined any appointment offered 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. An open competitive, promotion or preferred eligible list shall not be certified for filling a permanent competitive class vacancy created by reclassification of a permanently encumbered competitive class position if the appointment or promotion from such list

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

RULE XIII PROMOTIONS

1. In no case shall any person be eligible to participate in a promotion examination until he has served at least six months on a permanent basis in a lower grade position.
2. Any person who is nominated for non-competitive examination for promotion to a position and who fails to pass two successive examinations for such promotion shall not thereafter be eligible for employment in such position, except by appointment or promotion from an eligible list established following competitive examination.

RULE XIV PROBATIONARY TERM

1. Probationary term:
 - (a) Except as herein otherwise provided, every permanent appointment from an open competitive list and every original appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight (8) nor more than twenty-six (26) weeks.
 - (b) The probationary term for trainee appointment or trainee promotion 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 shall be eight weeks.
 - (c) An appointment shall become permanent upon the retention of the probationer after his completion of the maximum period service or upon earlier written notice following completion of minimum period of service that his probationary term is successfully completed. A copy of such notice shall be sent to the Commission. If the conduct or performance of the probationer is not satisfactory, his employment may be terminated at any time after the completion of the minimum period of service, and on or before completion of the maximum period of service in the manner as prescribed in these rules.
 - (d) The probationary term for the positions of Assessor, Firefighter and Police Officer shall be not less than twelve (12) nor more than fifty-two (52) weeks.

2. Interdepartmental and Intradepartmental promotions and transfers.

An interdepartmental promotion or transfer means a promotion or transfer from a position in one department to a position in another department. An intradepartmental promotion means a promotion from a position in one department to a position in the same department. Every interdepartmental promotion shall be for a probationary term of twelve weeks. If the conduct or performance of the probationer is not satisfactory, his/her employment in such position shall be discontinued at the end of such term. Upon written notice of the appointing authority the probationary period upon promotion may be waived and the appointee given a permanent appointment.

3. Restoration to permanent position.

When a permanent employee is promoted or transferred to a position in which he is required to serve a probationary term the position thus vacated by him shall not be filled, except on a temporary basis, during such probationary term. At any time during such probationary term the employee shall have the right to return to his previous position at his own election. If the conduct or performance of probationer is not satisfactory, he shall be restored to his former permanent position at the end of his probationary term.

4. Absence during probationary term.

Any periods of authorized or unauthorized absence aggregating up to ten work days during the probationary term, may, in the discretion of the appointing authority, be counted as time served in the probationary term. Any such periods of absence in excess of an aggregate of ten work days shall not be counted as time served in the probationary term. The minimum and maximum periods of the probationary term of any employee shall be extended by the number of work days of his absence which, pursuant to this section, are not considered as time served in the probationary term. Nothing in this section shall be construed to except a probationer from the application of Section 4 of Rule XX of these rules.

5. Report on probationer's service.

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

6. Restoration to eligible list.

A probationer whose employment is terminated or who resigns before the end of his probationary term may request that his name be restored to the eligible list from which he was appointed, provided such list is still in existence. His name may be restored to such list if the

Commission in its discretion determines that the probationer should be given a second opportunity for appointment.

7. Temporary or provisional service in higher level position.

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

8. Removal during probationary term.

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

9. Notwithstanding any other provisions of these rules, the appointment or promotion of a police officer shall not become permanent unless and until he has satisfied such requirements as may be applicable to him under Section 209-q of the general municipal law. If a police officer is promoted to a higher rank for which he has met all requirements of eligibility for permanent promotion except training requirements applicable under Section 209-q of the general municipal law he shall be deemed to be on leave of absence from the lower rank position from which he was promoted pending completion of such training. During such period such lower rank position may not be filled except on a temporary basis. In the event of his failure to complete such training successfully within the time allowed therefore, he shall be restored to such lower rank position.

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

RULE XV
SEASONAL AND EMERGENCY DEFENSE AND TRAINEE 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 Commission with respect to his physical fitness for the performance of the duties of the position, and may be disqualified for re-employment in the same manner, and for any of the reasons applicable to the disqualification of an eligible 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 81 of the Civil Service Law.

2. Emergency defense appointments.

- (a) Any position in a civil defense agency or any position created in a governmental agency to perform civil defense or other national emergency functions, which is unique and peculiar to civil defense or national emergency activities and which is not comparable to any regular, standard position in the classified civil service, may be designated, with the consent of the Commission and upon approval of the State Civil Service Commission, as an emergency defense position. No position involving conventional and stable duties of the nature of those performed in the regular and normal functions of civil government, or having as a counterpart a position in any regular established department or agency of civil government, shall be designated as an emergency defense position. An emergency defense position may be filled on a temporary basis for a period not to extend beyond the duration of the New York State Emergency Defense

Act. Appointment to such position shall be designated as emergency defense appointments. All positions designated as emergency defense positions shall be listed in Appendix E of these rules and made a part hereof as though set forth in full herein.

- (b) Any permanent employee who, with the consent of his appointing officer, accepts an emergency defense appointment under this subdivision shall be granted a leave of absence from his permanent position until the termination of such appointment.
- 3. The Civil Service Commission may require that permanent appointment or promotions to designated positions shall be conditioned upon the satisfactory completion of a term of service as a trainee in such a position or in an appropriate, lower training title or the completion of specified training or academic course, or both. The period of such term of training service shall be prescribed by the Commission. Upon the satisfactory completion of such training term, and of specified course if required, an appointee shall be entitled to full permanent status in the position for which appointment was made. Any appointment hereunder shall be subject to such probationary period as is prescribed in these rules. Also, the employment of such person may be discontinued if his conduct, capacity or fitness is not satisfactory, or at any time if he fails to pursue or continue satisfactorily such training or academic courses as may be required.

RULE 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 standing on the eligible list for a permanent appointment, nor shall the period of temporary service be counted as part of the probationary service in the event of subsequent permanent appointment.

- 2. Provisional appointment of permanent employee.

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

- 3. Successive provisional appointment.

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

4. Temporary appointment to permanently encumbered position.

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 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 name originally appeared may have expired.

**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 Commission, 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 Commission determines that the examinations scopes and qualifications for the positions held and to which appointment is sought are identical: or
(2) When the examinations scopes and qualifications are not identical, 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 Commission has determined that such appointment is for the good of the service.

**RULE XVIII
REINSTATEMENT**

- 1. A permanent employee who has resigned from his position may be reinstated without examination within one year from the date of such resignation in the position from which he resigned, if then vacant, or in any vacant position to which he was eligible for transfer or reassignment. In computing the one year period with which a person

may be reinstated after the resignation, the day the resignation takes effect, any time spent in active service in the military or naval forces of the United States or of the State of New York, and any time served in another position in the Civil Service of the same municipality shall be considered. In an exceptional case, the Commission may, for good cause shown and where the interests of the government would be served, waive the provisions of this rule to permit the reinstatement of a person to his former position more than one year after resignation; provided, however, that such a waiver to permit reinstatement more than three years after resignation shall be subject to approval of the State Civil Service Commission. For the purpose of this rule, where an employee on leave of absence resigns, such resignation shall be deemed effective as of the date of the commencement of such leave.

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 there from to his former position, or any similar position in the same salary grade for which such list is certified, shall be deemed to be a relinquishment of his eligibility for reinstatement, and his name shall 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 submission of reasons satisfactory to the Commission for his previous failure or refusal to accept reinstatement.
- (b) Effect or refusal to accept reinstatement to lower grade position. A person on a preferred list shall not be deemed to relinquish his eligibility for reinstatement there from by reason of his failure or refusal to accept reinstatement to a position in a lower salary grade than the position from which he was suspended or demoted. The name of such person may be withheld from further certification for reinstatement to a position in the same or a lower salary grade than the position to which he failed or refused to accept reinstatement.
- (c) Restoration to eligibility for reinstatement not to affect previous appointments. The restoration of the name of a person to a preferred list, or his restoration to eligibility for certification there from to positions in a lower salary grade than his former position, shall not invalidate or in any manner adversely affect any appointment, promotion, reinstatement or demotion previously made to any position to which such person would otherwise have been eligible for reinstatement from such preferred list.

RULE XIX LEAVE OF ABSENCE

1. A leave of absence without pay, not to exceed one year, may be granted to an employee by an appointing officer. Notice of such leave of absence shall be given to the Commission. Were 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 service continuously therein for three months immediately preceding the subsequent leave of absence. Notice of such subsequent leave of absence shall also be given to the Commission. Absence on leave for more than one year shall be deemed the equivalent of a resignation from the service upon the date of commencement of such absence, except as provided in subdivision 2 of this rule.

2. In an exceptional case, the Commission may for good cause shown waive the provisions of this rule to permit an extension of the leave of absence for an additional one year period. In no case may such leave of absence exceed in aggregate two years from the date of commencement of such 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 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 60 days after termination of his courses of study.

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 incompetency or misconduct have been or are about to be filed against an employee, the appointing authority may elect to disregard a resignation filed by such employee and to prosecute such charges; and, in the event that such employee is found guilty of such charges and dismissed from the service, his termination shall be recorded as a dismissal rather than as a resignation.

3. Withdrawal or amendment.

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

4. Voluntary demotion of permanent competitive employee.

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

RULE XXI
REPORT OF APPOINTING OFFICERS

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

- A. Every appointment or employment whether probationary, temporary or otherwise, in the classified service, with the date of commencement of service and the title and compensation of the position.
- B. Every failure to accept an appointment under him by a person eligible 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. Extended certifications.

The Commission may certify the employment of a person for a limited or extended period. No further certification shall be necessary for the payment of salary or compensation to such person, so long as his title and salary grade remain unchanged and during such stated period, except as to the first payment for services in each fiscal year and, if required by the Commission, the first payment for services in the second half of each fiscal year. Nothing herein shall be construed to prevent or preclude the Commission from terminating or rescinding a certification at any time by giving notice thereof to the appropriate fiscal or disbursing officer.

2. Temporary certifications.

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

3. Refusal or termination of certification.

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

RULE XXIII CLASSIFICATION PLAN

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

"Class" means one or more positions sufficiently similar with respect to duties and responsibilities to be designated by a single descriptive title and treated as a unit for the purpose of recruiting, establishing salary ranges and administering other personnel functions.

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

"Class specification" means a formal written statement of the class which defines the general character and scope of the duties and responsibilities of positions in the class, lists typical or illustrative examples of work of positions in the class, enumerates the 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 Commission shall prepare and maintain a list of class titles and class specifications for all positions in the classified service of the civil division and shall allocate all such positions to an appropriate class.

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

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

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

6. Notice and appeals. An appointing officer may make application for the classification or reclassification of any position in his department, or any employee in the classified service may apply for reclassification of his position. Such application must set forth reasons in support of the requested reclassification, and must show changes in the duties and responsibilities of the position since the last determination with respect to its classification. The Commission shall give reasonable notice of any proposal or application for a change in classification to the appointing

officer and to the employee or employees affected thereby. Any person desiring to submit such facts, orally or in writing in connection with the reclassification of any position shall be afforded reasonable opportunity to do so. The Commission shall then determine the proper allocation of the position. No employee, either by classification or reclassification, change of title or otherwise, shall be promoted, demoted, transferred, suspended or reinstated except in accordance with the provisions of the Civil Service Law and these rules.

RULE XXIV

PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION CONCERNING POLITICAL AFFILIATION

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

RULE XXV

LAYOFF OF COMPETITIVE CLASS EMPLOYEES

1. For the purpose of this Rule the following terms 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 college shall be deemed to the separate civil divisions.
- (d) Satisfactory service shall mean service by an employee during which he did not received 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.
 - (1) dismissal from the service; or
 - (2) suspension without pay for a period exceeding 1 month; or
 - (3) 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 Sec. 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.

(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 an agency in which he was employed, his seniority begins on the effective date of the cover-in. As between that employee and others covered-in on the same date, they shall have the seniority held by them as among themselves in the agency before the cover-in.

2. Suspension

a. When an occupied position in the competitive class is abolished, suspension is to be made from among those employees holding the same title in the same layoff unit as the abolished position.

b. Among permanent employees, the order of suspension is the inverse of the order of their original permanent appointments in the classified service. See above definition of permanent service for veterans and disabled veterans. An exception to this rule is that the blind have absolute retention rights but only in their job status.

c. A blind person may not back-date his permanent service if he also happens to be either a veteran or disabled veteran.

d. A person is considered blind if he is certified by the Commission for the Visually Handicapped of the NYS Social Service Department.

e. When two or more permanent incumbents of positions in a specific title are suspended, demoted or displaced at the same time, the order in which they shall be entitled to displace shall be determined by their respective retention standing, with those having the greater retention standing entitled to displace first.

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

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

h. Probationary employees occupying such positions in the same title, must also be suspended before any permanent employee in the layoff unit in that title who has completed his

probationary period. Probationary employees do, however, have superior retention rights to those of contingent permanent, temporary and provisional employees.

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

3. Vertical bumping (only competitive to competitive not across jurisd lines)

(a) Vertical bumping occurs when an employee in a specific title to which there is a direct line of promotion, who is himself suspended or displaced, displaces an employee in the next lower occupied title in direct line of promotion in the same layoff unit having the least seniority if the employee who seeks to displace has greater retention standing.

(b) Where the layoff involves more than one position in a title, the order of displacement will be the inverse of the order of suspension. That is, the most senior of the suspended employees will be the first to displace. This shall apply to both vertical bumping and retreat.

(c) If an employee refuses to displace a junior incumbent he must be laid off. This, however, does not protect the junior incumbent from being compared in retention standing with other incumbents if other positions at the higher level are being abolished.

(d) When a next lower title has been occupied by means of displacement regardless of when 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 he is retreating need not have been in the same layoff unit as the one from which he is displaced.

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

(e) Where a title change has been effected to better describe the duties of a position but the duties have not substantially changed since the suspended employee last

served in that title the new title will for retreat purposes deemed to be the former title.

5. An employee who refuses to accept an appointment afforded by displacement for whatever reason waives all rights regarding the displacement, however this employee's name will be entered on an appropriate preferred list.
6. Preferred list standing for competitive class employees on 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 30 months earlier than the actual date, determined in accordance with Sec. 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 Sec. 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 date of original appointment on a permanent basis in the classified service.
 - f. The names of all persons encompassed by paragraphs ©, (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 Oct. 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.