

WESTCHESTER COUNTY

CIVIL SERVICE RULES

TABLE OF CONTENTS

	<u>PAGE</u>
Purpose and Effect of the Rules	1
<u>RULE:</u>	
1. Definitions	2
2. Unclassified Service	3
3. Classified Service	3
4. Residence Requirements for Examinations	4
5. Announcements of Examinations	5
6. Applications	5
7. Examinations	5
8. Eligible Lists	7
9. Certification	8
10. Promotions	9
11. Probationary Appointment	10
12. Provisional Appointments	13
13. Successive Provisional or Temporary Appointment	14
14. Temporary Appointments	15
15. Effect of Temporary or Provisional Appointment on Status of Appointee	15
16. Transfers	16
17. Resignation	17
18. Reinstatement	18
19. Preferred List	19
20. Leave of Absence Without Pay	20
21. Reports of Appointing Officers	21
22. Certification of Payrolls	22
23. Classification Plan	23
24. Grading of Positions	24
25. Prohibition Against Questions Eliciting Information Concerning Political Affiliations	24
26. Removal and Other Disciplinary Proceedings	25
27. Layoff or Displacement	23
28. Investigations	28
29. Contingent Permanent Appointments	30

WESTCHESTER COUNTY

CIVIL SERVICE RULES

RULES FOR THE CLASSIFIED CIVIL SERVICE FOR THE
COUNTY OF WESTCHESTER AND THE CIVIL DIVISIONS
UNDER THE JURISDICTION OF THE COMMISSIONER OF HUMAN
RESOURCES OF WESTCHESTER COUNTY.

PURPOSE AND EFFECT OF THE RULES

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 County of Westchester on a basis of merit and fitness as provided in the Civil Service Law of the State of New York and the Westchester County Charter and Administrative Code. These rules have the force and effect of law, and apply to all positions in the classified service of the County of Westchester, as well as the towns, villages, special districts therein, School Districts and the Cities of Rye and Peekskill or other Civil Divisions which are or may hereafter be under the jurisdiction of the Commissioner of Human Resources of Westchester County.

These rules may only be amended in accordance with the Civil Service Law by the Commissioner of Human Resources after public hearing and subject to the approval of the State Civil Service Commission.

These rules shall supersede the "RULES GOVERNING THE ADMINISTRATION OF HUMAN RESOURCES MATTERS FOR THE WESTCHESTER COUNTY SERVICE" and the "CIVIL SERVICE RULES FOR TOWNS AND VILLAGES AND SPECIAL DISTRICTS IN WESTCHESTER COUNTY" as heretofore adopted and amended.

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:

- 1.1 "Commissioner of Human Resources" means the Commissioner of Human Resources of Westchester County.
- 1.2 "Employee" means the incumbent of a position holding the position in accordance with these rules and the Civil Service Law.
- 1.3 "Position" means an office or employment involving an aggregation of duties to be performed and responsibilities to be exercised by one person.
- 1.4 "Compensation" means the remuneration of a position and shall include food, lodging and maintenance when the same is furnished.
- 1.5 "Compensation Plan" shall mean a specified salary range for each job title with a minimum and maximum.
- 1.6 "Eligible List" means an official record which contains the names of those persons who have successfully completed examinations, listed and ranked in order of their final ratings from the highest to the lowest rank.
- 1.7 "Part-time Employment" means any employment or a 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 where the employee earns not more than one-half ($\frac{1}{2}$) of the rate assigned to the position if the position has been allocated to a graded salary schedule. This definition is limited in application to the jurisdictional classification of titles designated as part-time.
- 1.8 "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.
- 1.9 "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.
- 1.10 "Municipality" means county, city, town, village, school district, and shall also include special district, authority or public benefit corporation.

RULE 1. DEFINITIONS (Continued)

- 1.11 "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.
- 1.12 "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 Human Resources functions.
- 1.13 "Class Title" means the designation given under these rules to a class and to each position allocated to such class.
- 1.14 "Classification" means the assignment of a position to an appropriate class as determined by the duties, responsibilities and minimum qualification requirements of the position.
- 1.15 "Reclassification" means the assignment of a position from one class to another class because of a permanent and material change in the duties of that position.

RULE 2. UNCLASSIFIED SERVICE

The Unclassified Service includes those positions specifically defined in Section 35 of the Civil Service Law. Positions in the Unclassified Service other than those in the County Service which are part of the State Rules shall be listed in Appendix D of the Rules, and although listed separately, are considered a part hereto.

RULE 3. CLASSIFIED SERVICE

The Classified Service shall be divided into four classes to be designated as the exempt class, the non-competitive class, the labor class and the competitive class as follows: (Civil Service Law, Section 40.)

- 3.1 Exempt Class: 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, Subdivision 1). When a vacancy occurs in any position exempt class, the appointing officer must file a statement of the duties of the position with the Commissioner of Human Resources. Such position shall not be filled except on a temporary basis until such time as it has been studied and evaluated to determine whether such position, as then constituted, is properly classified in the exempt class. (Civil Service Law, Section 41, Subdivision 2.) Positions in the exempt class other than those in the county service, which are part of the State Rules, shall be listed in Appendix A of the Rules, and although listed separately, are considered a part hereto.

RULE 3. CLASSIFIED SERVICE (Continued)

- 3.2 Non-Competitive Class: 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. A nomination for such appointment shall be accompanied by an application executed by the appointee and both nomination and application shall be filed by the appointing authority with the Commissioner of Human Resources. Such appointment shall become effective only after approval by the Commissioner of Human Resources. (Civil Service Law, Section 42.) Positions in the noncompetitive class other than those in the county service, which are part of the State Rules, shall be listed in Appendix B of the Rules, and although listed separately, are considered a part hereto.
- 3.3 Labor Class: The labor class shall include unskilled laborers. 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 Human Resources may require applicants for employment in the labor class to qualify in such tests of their fitness for employment as may be deemed practicable. (Civil Service Law, Section 43.) Positions in the labor class other than those in the county service, which are part of the State Rules, shall be listed in Appendix C of the Rules, and although listed separately, are considered a part hereto.
- 3.4 Competitive Class: The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examination, and shall include all positions now existing or hereafter created of whatever functions, designations or compensation in each and every branch of the classified service, except such positions as are in the exempt class, the noncompetitive class or the labor class. (Civil Service Law, Section 44.)

RULE 4. RESIDENCE REQUIREMENTS FOR EXAMINATION

- 4.1 An applicant must be at the time of examination, and for at least one (1) month prior thereto, a resident of the County of Westchester or the civil division therein in which the appointment is to be made, or a resident of any reasonable combination of civil divisions both in and outside of New York State contiguous to the civil division in which the appointment is to be made, as determined by the Commissioner of Human Resources. Residence requirements may be suspended or reduced by the Commissioner of Human Resources in cases where recruitment difficulty makes such requirements disadvantageous to the public interest.
- 4.2 When preference in certification is given to residents of a municipality pursuant to subdivision 4-a of Section 23 of the Civil Service Law, an eligible must have been, at the time of the examination and for at least one month prior thereto, a resident of such municipality in order to be included in a certification as a resident of such municipality.

RULE 5. ANNOUNCEMENTS OF EXAMINATIONS

- 5.1 The public announcement of an examination shall specify the title, salary or salary range, the duties of the position, the minimum qualifications required, the final date for filing applications, the subjects or scope of the examination and the relative weights thereof, and the date of the examination. Public notice of open competitive examinations shall be made at least twenty-five (25) days before the date of the examination and must be conspicuously posted in a public place for at least fifteen (15) days. The last day for filing applications shall be at least ten (10) days before the date of the examination.

RULE 6. APPLICATIONS

- 6.1 Applications of candidates for positions in the competitive class and for positions in the non-competitive class or labor class when required, must be addressed to the Commissioner of Human Resources at the office of the Commissioner of Human Resources.
- 6.2 The Commissioner of Human Resources shall notify each applicant of the disposition of his application. Applicants for competitive examination shall be given notice of their approval at least four (4) days before the examination, by mail to the address stated in the application, or one day's notice by telegram.
- 6.3 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.
- 6.4 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.
- 6.5 The burden of establishing qualifications to the satisfaction of the Commissioner of Human Resources shall be upon the applicant. Any applicant who refuses to permit the Commissioner of Human Resources to investigate matters necessary for the verification of his qualifications or who otherwise hampers, impedes or fails to cooperate with the Commissioner of Human Resources in such investigation shall be disqualified for examination or, after examination for certification and appointment

RULE 7. EXAMINATIONS

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

RULE 7. EXAMINATIONS (Continued)

- 7.2 For examinations rated by the Commissioner of Human Resources, applications and examination records and papers of candidates shall be preserved until at least six (6) 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.
- 7.3 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 may inspect his examination papers in the office of the Commissioner of Human Resources and in the presence of a designated representative of the Commissioner of Human Resources, provided he makes request for such inspection in writing within the period of ten (10) days after the date of the post-mark of such notice. The application and examination papers of a candidate shall be exhibited only to the candidate. The application of an eligible who is being considered for appointment may be shown to the appointing officer.
- 7.4 A candidate who wishes to appeal to the Commissioner of Human Resources from his rating in one, or more, or all the subjects of an examination must submit such appeal in writing within twenty (20) 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.
- 7.5 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.
- 7.6 The Commissioner of Human Resources may, at any time during the life of an eligible list resulting from an examination prepared and rated by the Department of Civil Service, request the correction of any clerical or computational errors in the ratings of candidates who competed in the examination at the direction of the New York State Department of Civil Service or as a result of an error in veteran's credits or seniority computations.
- 7.7 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.

RULE 7. EXAMINATIONS (Continued)

- 7.8 Rating keys shall be prepared for each examination held. Such keys shall be a permanent part of the record of each examination.
- 7.9 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 the 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.
- 7.10 After a candidate's rating has been determined, he shall be notified of such rating, unless he has otherwise been disqualified.

RULE 8. ELIGIBLE LISTS

- 8.1 The date of the establishment of a list shall be the date fixed therefore by the Commissioner of Human Resources and shall be entered on such list. The duration of all eligible lists shall be fixed by the Commissioner of Human Resources, shall not be less than one (1) nor more than four (4) years. 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 received the same final rating in the examination they shall be ranked in accordance with such uniform, impartial procedures as may be prescribed therefore by the Commissioner of Human Resources.
- 8.2 Eligible lists shall be open to public inspection at the office of the Commissioner of Human Resources. The names of persons who failed to receive a passing grade on the examination shall not be disclosed to the public.
- 8.3 The Commissioner of Human Resources shall have the power in his discretion to correct any error and amend any eligible list where it is determined that an error has been made. The Commissioner of Human Resources shall have the power to revoke any eligible list where 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 and reported to the State Civil Service Commission.

RULE 9. CERTIFICATION

- 9.1 The Commissioner of Human Resources shall determine the eligible list most nearly appropriate for the position to be filled, and shall certify to the appointing authority a sufficient number of eligibles from which selection for appointment may be made. When the name of any eligible is included in a certification for appointment, the names of all other eligibles on the list having the same final rating as such eligible shall likewise be included in such certification.
- 9.2 A certification issued by the Commissioner of Human Resources to an appointing officer shall be valid for a period up to sixty (60) days from the date of its issuance. After the expiration date determined by the Commissioner of Human Resources, no appointment shall be made except from a new certification.
- 9.3 When an eligible is canvassed for appointment or is offered appointment in writing and fails to state his willingness to accept such appointment within ten (10) business days after the mailing of such canvass or offer, or before the end of the next succeeding business day if such canvass or offer is sent by telegram, the eligible may be considered ineligible for purposes of making selection for such particular appointment.
- 9.4 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 Commissioner of Human Resources shall enter upon the eligible list the reasons for his action in such cases.
- 9.5 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 8. A permanent appointment from the eligible list will result in the name of the candidate being removed from the list.
- 9.6 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 Commissioner of Human Resources 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 (4) years from the date of nomination.

RULE 9. CERTIFICATION (Continued)

- 9.7 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.

RULE 10. PROMOTIONS

- 10.1 Any advancement of an employee from a position in one title to a position in another title having either greater responsibilities or for which a higher maximum rate of pay is prescribed, shall be deemed a promotion, and shall be made only in accordance with the provisions of the Civil Service Law and these rules. All vacancies in the competitive class shall be filled by promotion as far as is practicable.
- 10.2 Promotion examinations shall be open so far as practicable to employees having permanent status in a lower appropriate title or titles, and whose qualifications meet the minimum requirements established for the title to which they seek promotion, but in no case shall any person be eligible for appointment from a promotional list until six (6) months from the date of his permanent appointment in the lower grade position.
- 10.3 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.
- 10.4 Notwithstanding any other provisions of law, the Commissioner of Human Resources may, for entrance level positions as defined and designated by him, extend to employees in the service of a civil division who are holding a position in the non-competitive class the same opportunity as employees in the competitive class to take promotional examinations for which such non-competitive class service is determined by the Commissioner of Human Resources to be appropriate preparation if such examinations are to be held in conjunction with open competitive examination.
- 10.5 Promotion examinations for non-competitive class employees shall, in addition to the requirements of the 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 11. PROBATIONARY APPOINTMENT

11.1 Probationary Term

a. 1. Except as herein otherwise provided, every permanent appointment from either an open competitive list or promotion 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 twelve (12) weeks, nor more than fifty-two (52) weeks.

2. Every permanent appointment from an open competitive Police Officer eligible list shall be for a probationary term of not less than twelve (12) weeks nor more than seventy-eight (78) weeks.

b. The probationary term for training positions, in which an appointee is required to serve a specified training term, shall be not less than twelve (12) weeks, nor more than fifty-two (52) weeks except for Probation Officer Trainee which shall be not less than twelve (12) weeks, nor more than one hundred four (104) weeks.

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

d. 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 service, and on or before completion of the maximum period of service. A probationer whose services are to be terminated, shall receive written notice at least one week prior to such termination, and copy of such notice shall be sent to the Commissioner of Human Resources.

11.2 Absence During Probationary Term

Any periods of authorized absence aggregating up to ten (10) 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 absences in excess of an aggregate of ten (10) 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.

11.3 Interdepartmental Promotions

An interdepartmental promotion means a promotion from a position in one department to a position in another department. Every interdepartmental promotion shall be for a probationary term of not less than twelve (12) weeks nor more than fifty-two (52) weeks. An appointment shall become permanent

RULE 11. PROBATIONARY APPOINTMENT (Continued)

11.3 upon completion of the maximum period of service or upon earlier written notice following completion of the minimum period of service that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Commissioner of Human Resources. For the purpose of this subdivision, the term "promotion" shall include the appointment of an employee to a higher grade position in the competitive, non-competitive, exempt or labor class.

11.4 Restoration to Permanent Position

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

11.5 Restoration to Eligible List

A probationer whose employment is terminated or who resigns before the end of his probationary term, may request in writing 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 Commissioner of Human Resources in his discretion determines that the probationer shall be given a second opportunity for appointment.

RULE 11. PROBATIONARY APPOINTMENT (Continued)

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

11.7 Removal During Probationary Term

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

11.8 Police Officers

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 two hundred nine-q (209q) 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 the training requirements applicable under Section two hundred nine-q (209q) 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.

RULE 11. PROBATIONARY APPOINTMENT (Continued)

11.9 Intradepartmental Promotion

An intradepartmental promotion means a promotion from one position to another position under the jurisdiction of the same appointing authority. Every intradepartmental promotion shall be for a probationary term of not less than twelve (12) weeks nor more than fifty-two (52) weeks. An appointment shall become permanent upon completion of the maximum period of service or upon earlier written notice following completion of the minimum period of service that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Commissioner of Human Resources. For the purpose of this subdivision, the term "promotion" shall include the appointment of an employee to a higher grade position in the competitive, non-competitive, exempt or labor class.

- 11.10 The Commissioner of Human Resources 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 courses, or both. The period of such term of training service shall be prescribed by the Commissioner of Human Resources. 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 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 12. PROVISIONAL APPOINTMENTS

- 12.1 Provisional appointments shall be made in accordance with the provisions of Section 65 of the Civil Service Law which provides that whenever there is no appropriate eligible list available for filling a vacancy in the competitive class, the appointing officer may nominate a person to the Commissioner of Human Resources, and if such nominee shall be certified by the Commissioner of Human Resources as qualified, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination. A nominee for provisional appointment shall meet the minimum qualifications as stated in the official job specification for the position in order to be certified as qualified for provisional appointment by the Commissioner of Human Resources.

RULE 12. PROVISIONAL APPOINTMENTS (Continued)

- 12.2 Termination of provisional appointments. A provisional appointment to any position shall be terminated within two months following the certification of an appropriate eligible list for filling vacancies in such positions; provided, however, that where there are a large number of provisional appointees in any department or agency to be replaced by permanent appointees from a newly established eligible list, and the appointing officer or body deems that the termination of the employment of all such provisional appointees within two months following certification of such list would disrupt or impair essential public services, evidence thereof may be presented to the Commissioner of Human Resources, who may waive the provisions and authorize the termination of the employment of various numbers of such provisional appointees at prescribed intervals; provided, however, that in no case shall the employment of any such provisional appointee be continued longer than four (4) months following the establishment of such eligible list.

RULE 13. SUCCESSIVE PROVISIONAL OR TEMPORARY APPOINTMENT

- 13.1 No provisional or temporary employee who has refused to take an examination held for permanent appointment shall be given another provisional or temporary appointment in the same position.
- 13.2 No provisional or temporary employee who has twice failed an examination for permanent appointment, twice failed to appear for an examination for permanent appointment or any combination of the above shall be given another provisional or temporary appointment in the same position, provided, however, that upon written request from the appointing officer which shall include evidence of a lack of interested or available candidates, the Commissioner of Human Resources at his discretion may allow a third and final provisional or temporary appointment in the same position.

RULE 14. TEMPORARY APPOINTMENTS

- 14.1 Temporary appointments shall be made in accordance with the provisions of Section 64 of the Civil Service Law. A temporary appointment may be made for a period not exceeding three (3) months when the need for such service is important and urgent. A temporary appointment may be made for a period exceeding three (3) months under the following circumstances only:
- a. When an employee is on leave of absence from his permanent position, a temporary appointment to such position may be made for a period not exceeding the authorized duration of such leave of absence.

RULE 14. TEMPORARY APPOINTMENTS (Continued)

- 14.1 b. A temporary appointment may be made for a period not exceeding six (6) months when it is found by the Commissioner of Human Resources, upon due inquiry, that the position to which such appointment is proposed will not continue in existence for a longer period; provided, however, that where a temporary appointment is made to a position originally expected to exist for no longer than six (6) months and it subsequently develops that such position will remain in existence beyond such six (6) month period, such temporary appointment may be extended, with the approval of the Commissioner of Human Resources, for a further period not to exceed an additional six (6) months.

Successive temporary appointments shall not be made to the same position after the expiration of the authorized period of the temporary appointment to such position.

- 14.2 Temporary appointments from eligible lists. A temporary appointment for a period not exceeding three months may be made without regard to existing eligible lists. A temporary appointment for a period exceeding three months but not exceeding six months may be made by the selection of a person from an appropriate eligible list, if available, without regard to the relative standing of such person on such list. Any further temporary appointment beyond such six month period or any temporary appointment originally made for a period exceeding six months shall be made by the selection of an appointee from among those graded highest on an appropriate eligible list, if available.

RULE 15. EFFECT OF TEMPORARY OR PROVISIONAL APPOINTMENT ON STATUS OF APPOINTEE

- 15.1 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.

15.2 Provisional Appointment of Permanent Employee

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

RULE 16. TRANSFERS

16.1 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 Human Resources, 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 promotional list for the position to which appointment is sought containing the names of three or more eligibles willing to accept appointment; and

(c) 1. The Commissioner of Human Resources 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, 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 Human Resources determined that such appointment is for the good of the service.

16.2 Every employee who has been transferred from a position under the jurisdiction of one appointing authority to a similar position under the jurisdiction of another appointing authority shall serve a mandatory probationary term of not less than twelve (12) weeks nor more than fifty-two (52) weeks. An appointment shall become permanent upon completion of the maximum period of service or upon earlier written notice following completion of the minimum period of service that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Commissioner of Human Resources.

RULE 17. RESIGNATION

- 17.1 Resignation in writing. Except as otherwise provided herein, every resignation shall be in writing.
- 17.2 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 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, termination shall be recorded as a dismissal rather than as a resignation.
- 17.3 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.
- 17.4 Effective date. 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.
- 17.5 Voluntary Demotion of Permanent Employees. A competitive class 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 appoint authority, the employee may be reinstated to any vacant lower salary level position for which he/she is eligible for such reinstatement as provided by these rules. No limitation on reinstatement will exist due to a department promotion list. An employee may not be reinstated to a position for which a preferred eligible list is established.

A permanent, other than competitive, employee of the classified service who voluntarily elects to relinquish his/her permanent status to a position and accept demotion, must deliver a statement of relinquishment to the appointing authority. Upon receipt of the statement of relinquishment by the authority, the employee may be appointed to any vacant lower level salary position, other than competitive, for which he/she is qualified.

Such statement of relinquishment shall not take effect until the employee is reinstated to the lower level position.

Appointments made pursuant to this rule only do not require the individual to serve a probation period.

RULE 18. REINSTATEMENT

- 18.1 A permanent competitive class employee who has resigned may be reinstated without 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, in the same manner as an employee who had resigned, shall be eligible for reinstatement by another appointing authority.

All reinstatements are subject to the following terms and conditions:

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

Reinstatements following a break in service of more than one year must also satisfy the following additional condition(s):

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

In computing the one (1) year period 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.

- 18.2 Every employee who has been reinstated to the position from which he/she resigned or in any vacant position to which he/she was eligible for transfer or reassignment shall serve a mandatory probationary term of not less than twelve (12) weeks nor more than fifty-two (52) weeks. An appointment shall become permanent upon completion of the maximum period of service or upon earlier written notice following completion of the minimum period of service that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Commissioner of Human Resources.

RULE 19. PREFERRED LIST

19.1 Whenever, for reasons of economy, curtailment of activities, or otherwise, a person holding a permanent appointment to a position in the competitive class is demoted or separated from the service through no inability or fault of his own, the Commissioner of Human Resources shall enter the name of such person, the title of his position, the date of his appointment, and the date and reason for his demotion or separation from the service upon a preferred list. The Commissioner of Human Resources shall certify such list when a vacant position in that or a substantially similar title is to be filled. This preferred list shall contain the names of all eligibles in order of their standing and shall be certified before any other list. The eligibility For reinstatement of a person whose name appears on any such preferred list shall not be continued for a period longer than four (4) years from the date of separation or demotion.

19.2 Refusal or Failure to Accept Appointment from Preferred List

a. Relinquishment of eligibility for appointment. The failure or refusal of a person on a preferred list, after reasonable notice, to accept appointment therefrom to his former position, or any similar position in the same salary grade for which such list is certified, shall be deemed to be a relinquishment of his eligibility 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 in writing satisfactory to the Commissioner of Human Resources for his previous failure or refusal to accept appointment.

b. Effect of refusal to accept appointment to lower grade position. A person on a preferred list shall not be deemed to relinquish his eligibility for appointment therefrom by reason of his failure or refusal to accept appointment 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 appointment to a position in the same or a lower salary grade as the position to which he failed or refused to accept appointment.

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

RULE 20. LEAVE OF ABSENCE WITHOUT PAY

- 20.1 Any officer or employee who is temporarily physically or mentally unable to perform his duties or who desires to engage in a course of study intended to increase his usefulness to the service, or who, for any reason considered good by the appointing officer desires to secure a leave of absence from his regular duties may be granted a leave of absence without pay for a period not to exceed one (1) year. Such leave of absence without pay shall be reported to the Commissioner of Human Resources in the form prescribed by him. Where a leave of absence without pay has been granted for a period which aggregates one (1) year, a further leave of absence without pay shall not be granted unless the employee returns to his position and serves continuously therein for a period of three (3) months immediately preceding the subsequent leave of absence without pay. Notice of such subsequent leave of absence without pay shall be approved by the Commissioner of Human Resources.
- 20.2 In an exceptional case, the Commissioner of Human Resources may for good cause shown, waive the provisions of this rule to permit an extension of the leave of absence without pay for an additional period not to exceed in the aggregate two (2) years from the date of commencement thereof.
- 20.3 Failure of an employee to return to his position on the date of the expiration of such leave of absence without pay or any authorized extension thereof shall be deemed a resignation from the service upon the date such leave of absence without pay commenced.

RULE 21. REPORTS OF APPOINTING OFFICERS

- 21.1 For the purpose of certification of payrolls and to enable the Commissioner of Human Resources to keep an official roster of the classified service as required by law, each appointing officer, from time to time, and upon the date of the official action in each case, shall report to the Commissioner of Human Resources all changes in the status of employees including but not limited to:
- 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 or termination 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.

RULE 21. REPORTS OF APPOINTING OFFICERS (Continued)

- 21.1 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 salaries and date thereof.
- i. Every reinstatement in a position, with the salary and date 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 22. CERTIFICATION OF PAYROLLS

22.1 The Commissioner of Human Resources shall certify payrolls in accordance with Section 100 of the Civil Service Law.

22.2 Extended Certifications

The Commissioner of Human Resources may certify the employment of a person for a limited or extended period. No further certification shall be necessary for the payment of salaries or compensation to such a person as long as his salary and title grade remain unchanged and during such stated period except as to the payments for services in each fiscal year as follows:

<u>Civil Division</u>	<u>Payroll Period(s) for Certification</u>
County	Fourth Payroll Period
Towns	1st Full Payroll Period July
Villages	1st Full Payroll Period August
School Districts	1st Full Payroll Period March
Special Districts	1st Full Payroll Period January
City of Rye	1st Full Payroll Period July
City of Peekskill	1st Full Payroll Period July
Westchester Medical Center	1st Full Payroll Period March

Nothing herein shall be construed to prevent or preclude the Commissioner of Human Resources from terminating or rescinding a certification at any time and may change the payroll period(s) for certification by giving notice thereof to the appropriate fiscal or disbursing officer.

RULE 22. CERTIFICATION OF PAYROLLS (Continued)

22.3 Temporary Certifications

When the name of any person is first submitted for certification following his appointment, reinstatement, promotion, transfer, or other change in status, and the Commissioner of Human Resources requires further information or time to enable him to make a final determination thereon, the Commissioner of Human Resources may certify such person temporarily pending such final determination. In such event the Commissioner of Human Resources 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 Commissioner of Human Resources finds, following receipt of such information, that the employment of such person is not in accordance with the law and rules, the Commissioner of Human Resources shall immediately terminate such certification by notice to the appropriate fiscal or disbursing officer.

22.4 Refusal or Termination of Certification

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

RULE 23. CLASSIFICATION PLAN

23.1 Titles of Positions and Title Specifications

Positions under the jurisdiction of the Commissioner of Human Resources shall be assigned to the appropriate titles by the Commissioner of Human Resources. The Commissioner of Human Resources shall cause to be prepared and maintained in a place easily accessible to the public during business hours, detailed specifications for each title. No person shall be employed or appointed under any title not appropriate to the duties to be performed.

23.2 Classification of New Positions

The appointing officer shall file a prescribed form with the Commissioner of Human Resources 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 Human Resources shall assign the position to an appropriate class, or if no appropriate class exists, shall create a new class.

RULE 23. CLASSIFICATION PLAN (Continued)

23.3 Reclassification

Any appointing officer may make application to the Commissioner of Human Resources for the classification or reclassification of any position in his department, or any employee in the classified service may apply for a reclassification of his position. Such application must set forth reasons in support of the requested reclassification, and must show changes in the duties and responsibilities of the position since the last determination with respect to its classification. The Commissioner of Human Resources 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 incumbent or his supervisor desiring to submit facts orally or in writing in connection with the reclassification of any position shall be afforded reasonable opportunity to do so. After an analysis of the changes in the duties and responsibilities of the position, the Commissioner of Human Resources shall assign the position to an appropriate class, or if no appropriate class exists, shall create a new class. No employee, either by classification, 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 24. GRADING OF POSITIONS

Unless the legislative body of a municipality under the jurisdiction of the Commissioner of Human Resources shall have adopted a compensation plan, then for the purposes of promotion, demotion, transfer and reinstatement, all positions in the competitive class shall be graded as follows:

GRADE 1 All positions, the compensation of which is at a rate of not more than \$6,000 per annum.

GRADE 2. All positions, the compensation of which is at a rate of more than \$6,000, but not more than \$7,000 per annum.

GRADE 3. All positions, the compensation of which is at a rate of more than \$7,000, but not more than \$8,000 per annum.

GRADE 4. All positions, the compensation of which is at a rate of more than \$8,000, but not more than \$9,000 per annum.

GRADE 5. All positions, the compensation of which is at a rate of more than \$9,000, but not more than \$10,000 per annum.

GRADE 6. All positions, the compensation of which is at a rate of more than \$10,000, but not more than \$11,000 per annum.

GRADE 7. All positions, the compensation of which is at a rate of more than \$11,000, but not more than \$12,000 per annum.

RULE 24. GRADING OF POSITIONS (Continued)

- GRADE 8. All positions, the compensation of which is at a rate of more than \$12,000, but not more than \$13,000 per annum.
- GRADE 9. All positions, the compensation of which is at a rate of more than \$13,000, but not more than \$14,000 per annum.
- GRADE 10. All positions, the compensation of which is at a rate of more than \$14,000, but not more than \$15,000 per annum.
- GRADE 11. All positions, the compensation of which is at a rate of more than \$15,000, but not more than \$16,000 per annum.
- GRADE 12. All positions, the compensation of which is at a rate of more than \$16,000, but not more than \$17,000 per annum.
- GRADE 13. All positions, the compensation of which is at a rate of more than \$17,000, but not more than \$18,000 per annum.
- GRADE 14. All positions, the compensation of which is at a rate of more than \$18,000, but not more than \$19,000 per annum.
- GRADE 15. All positions, the compensation of which is at a rate of more than \$19,000, but not more than \$20,000 per annum.
- GRADE 16. All positions, the compensation of which is at a rate of more than \$20,000 per annum.

RULE 25. PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION
CONCERNING POLITICAL AFFILIATION

- 25.1 No question in any examination or application or other proceeding by the Commissioner of Human Resources 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 Human Resources. 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 26. REMOVAL AND OTHER DISCIPLINARY PROCEEDINGS

- 26.1 Removal, disciplinary action, appeals from determinations in disciplinary proceedings and compensation of officers and employees reinstated by court order shall conform to the provisions of Sections 75, 76 and 77, of the Civil Service Law.

RULE 27. LAYOFF OR DISPLACEMENT

27.1 For the purpose of this Rule the following terms shall mean:

a. Direct line of promotion shall be strictly construed 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 shall be deemed to be separate civil divisions.

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

- (i) dismissal from the service, or
- (ii) suspension without pay for a period exceeding one month, or
- (iii) demotion in grade and title.

e. (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 sixty (60) months earlier than the actual date; while non-disabled veterans are considered to have been appointed thirty (30) months earlier than their actual date of appointment. For the purpose of this Rule the definition of what constitutes a veteran or disabled veteran is contained in Section 85 of the Civil Service Law.

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

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

(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.

RULE 27. LAYOFF OR DISPLACEMENT (Continued)

27.1 (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.

27.2 Suspension

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

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

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

d. A person is considered blind if he is so certified by the Commission for the Visually Handicapped of the New York State Social Services Department.

e. When two (2) 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. Before any permanent employee is suspended from such positions all employees occupying these positions must be let go in the following order: provisionals, temporaries, contingent permanents.

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.

RULE 27. LAYOFF OR DISPLACEMENT (Continued)

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

27.3 Vertical Bumping

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

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

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

d. When a next lower title has been occupied by means of displacement regardless of when 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.

27.4 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

RULE 27. LAYOFF OR DISPLACEMENT (Continued)

- 27.3 c. The service of the displacing incumbent in the title to which he is retreating need not have been in the same lay-off unit as the one from which he is displaced.
- 27.4 d. An employee may also displace by retreat to a position in a title he last served on a permanent basis although he had intervening service in other titles as long as his service in each of the intervening titles was on other than a permanent basis. He may also displace by retreat to a position which does not count in the computation of his continuous service.
- e. Where a title change has been effected to better describe the duties of a position but the duties have not substantially changed since the suspended employee last served in that title the new title will for retreat purposes be deemed to the former title.
- 27.5 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.
- 27.6 An appointing authority may take such steps as it may deem necessary in order to secure binding written commitments in advance of suspension, demotion or displacement from employees potentially affected by such suspension, demotion or displacement as to their willingness to accept reassignment or displacement.

RULE 28. INVESTIGATIONS

- a. The Westchester County Department of Human Resources may conduct investigations concerning the qualifications of candidates, eligibles and appointees for County positions or public authorities under the jurisdiction of the Commissioner of Human Resources. The scope of these investigations may include training, experience and character qualifications or any area pertinent to the suitability of the candidate, eligible or appointee for employment. The investigation of candidates, eligibles or appointees shall be as complete as is necessary to make an informed evaluation and determination. This may include the taking of fingerprints and physical descriptive data of such candidate, eligible or appointee.
- b. Each case involving a criminal conviction shall be considered on its own merits. A candidate, eligible or appointee shall not automatically be disqualified or barred from appointment solely on the basis of a criminal conviction unless mandated by statute.

RULE 28. INVESTIGATIONS (Continued)

c. In review of the criminal convictions full consideration shall be given to the following:

1. Nature and seriousness of offense;
2. Circumstances under which the offense was committed;
3. Lapse of time since the offense was committed;
4. Individual's age at the time of the offense;
5. Social conditions which may have fostered the offense;
6. Relationship of the nature of the offense to the position sought;
7. Number of criminal convictions;
8. Honesty of the candidate in admitting the conviction record; and
9. Evidence of rehabilitation as demonstrated by the individual's good conduct while in correctional custody and/or the community; counseling or psychiatric treatment received; acquisition of additional academic or vocational schooling; successful participation in correctional work-release programs and the recommendations of persons who have or have had the applicant under their supervision.

RULE 29. 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 layoff or 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 their respective retention standing as detailed in Rule 27.

RULE 29. CONTINGENT PERMANENT APPOINTMENTS (Continued)

3. Preferred List: Upon displacement, if the contingent permanent appointee was made from a promotion eligible list, he/she shall be restored to his/her permanent position and have their name placed on a preferred eligible list for certification as a mandatory list only to the department or agency in which the contingent permanent appointment was made. If the contingent permanent appointee was appointed from an open-competitive eligible list and does not have a permanent position to return to, he/she shall have their 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.

5. Promotion: When a permanent competitive class employee accepts a contingent permanent appointment, the position vacated by such employee shall not be filled except on a temporary or contingent permanent basis until the contingent permanent appointment matures into a permanent appointment.

6. Leave Without Pay: Any individual receiving an appointment under this rule may receive the same leave without pay entitlements associated with permanent competitive class status except any such leave and appointment under this rule may be terminated upon the return of the permanent incumbent as described in (2) above.

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

c. Appointments to contingent permanent positions shall be made by selection of one of the top three candidates on an appropriate eligible list willing to accept a contingent permanent appointment; there will be no recanvassing of the eligible list in the event the contingent permanent position becomes unencumbered. Acceptance of a contingent permanent appointment will remove the person's name from the eligible list for any future contingent permanent or permanent vacancies within the department or agency in which the contingent permanent appointment was made.

d. If a permanent vacancy becomes available in the same title in the department or agency in which a contingent permanent appointment has been made, contingent permanent appointees shall 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.

RULE 29. CONTINGENT PERMANENT APPOINTMENTS (Continued)

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. Upon approval of this rule all individuals holding temporary appointments from eligible lists to encumbered positions shall have their temporary appointments changed to contingent permanent appointments and shall thereafter be governed by the provisions of this rule. (Approved by NYS Civil Service Commission May 4, 1988.)

csrules\Wcrules
REVISED: 7/26/2012