TIOGA COUNTY CIVIL SERVICE RULES

Adopted by the
Tioga County Office of Personnel and Civil Service
February 8, 1984
Approved by the
New York State Civil Service Commission
June 20, 1984

Amended certain appendices September 5, 1984
Approved by the
New York State Civil Service Commission
March 20, 1985

Linda Parke
Personnel Officer
Ronald E. Dougherty County Office Building, 56 Main St. Owego, NY 13827

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R E S O L U T I O N

(of original adoption)

On February 8, 1984, the Tioga County Personnel Officer adopted the following resolution:

WHEREAS, the Tioga County Personnel Officer held a public hearing on February 8, 1984, pursuant to the provisions of Section 20.2 of the Civil Service Law, on the Rules for the classified Civil Service of Tioga County;

NOW, THEREFORE BE IT RESOLVED, that, subject to the approval of the New York State Civil Service Commission, the attached Rules are hereby adopted as the Rules for the classified Civil Service of Tioga County; and

BE IT FURTHER RESOLVED, that these Civil Service Rules shall supersede all former Civil Service Rules of Tioga County.

s/ Robert R. Biehl
Personnel Officer

ATTEST:s/ Dorothy H. Wilken
Civil Service Administrator

DATE: February 8, 1984

NEW YORK STATE CIVIL SERVICE COMMISSION
At a meeting of the State Civil Service Commission
held June 20, 1984, the foregoing resolution was
Approved.

ATTEST: s/ John M. Keefe
Director of Civil Service
Operations and Administration

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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 Tioga County on a basis of merit and fitness as provided in the Civil Service Law of the State of New York. These rules have the force and effect of law, and apply to all positions in the classified service of Tioga County as well as the towns, villages, school districts, and special districts therein. These rules may be amended by the Personnel Officer after public hearing and subject to the approval of the State Civil Service Commission.

RULES FOR THE CLASSIFIED CIVIL SERVICE OF TIOGA COUNTY

RULE I - DEFINITIONS

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

1. **"Civil Division"** means each county, town, city, village, school district, community college, public authority, or special district.

2. **"Eligible list"** means an official record established and maintained by the Personnel Officer as a public record which contains the names of those persons who have successfully completed an examination, listed in order of their final ratings from the highest to the lowest rank.

3. **"Employee"** means the incumbent of a position, or multiple positions where authorized, who has been appointed in accordance with the Civil Service Law and these rules.

4. **"Employment in Multiple Positions"** means the employment of an individual in more than one position, where authorized by the Personnel Officer, in one or more civil divisions. Appointments to each position must be made in accordance with the Civil Service Law, Rules, and applicable policies.

5. **"Employment on a Part-time Basis"** means any employment in a position, or combination of positions, in a civil division, in which an individual works less than fifty percent of the prescribed standard workweek by the governing body or other appropriate authority, or where the employee earns not more than one half of the rate assigned to the position if the position has been allocated to a salary schedule. All positions designated in the Appendices of these rules as non-competitive due to their part-time nature must be filled on a competitive basis when the regularly assigned work schedule or expected earrings will exceed the limitations herein.

6. **"Personnel Officer"** means the county personnel officer of Tioga County.

7. **"Position"** means an aggregation of duties to be performed and responsibilities to be exercised by one employee as described in the job classification specification or duties statement.

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. **"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.

NOTE: The masculine gender shall include the feminine and the feminine gender shall include the masculine. Whenever the word "He" appears, read "He" or "She"

RULE II - POWER AND DUTIES OF PERSONNEL OFFICER

1. The Personnel Officer shall have all the powers and duties of a county civil service commission.

2. The Personnel Officer may appoint subordinates and employees, within available appropriations as he deems necessary or proper to carry out the purposes of these rules and the law, and shall fix the duties of these subordinates and employees.

3. The Personnel Officer shall keep true and accurate records of his actions which shall be open to public inspection.

RULE III - EXEMPT CLASS

1. Positions in the exempt class are those for which competitive or non-competitive examinations or other qualification requirements are not practicable. (Civil Service Law, Section 41.)

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

3. Upon the occurrence of a vacancy in an exempt class position the Personnel Officer shall study and evaluate the position and within four months after the occurrence of the vacancy determine if the position, as then constituted, is properly classified in the exempt class.

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

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 Personnel Officer 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:** An applicant must be at the time of examination and for at least four months prior to 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 Personnel Officer. Residence requirements may be suspended by the Personnel Officer in cases where it is advantageous to the public interest. When preference in certification is given to residents of a municipality pursuant to subdivision 4-a of Section 23 of the Civil Service Law, an eligible must have been, at the time of certification and for at least four months prior thereto, a resident of such municipality in order to be included in a certification as a resident of such municipality.

2. **Announcements of examination:** 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 qualification required, the final date for filing applications, the subjects or scope of the examination and the relative weights thereof, and the date and place of the examination. Public notice of open competitive examinations shall be made at least twenty-five days before the date of the examination and must be conspicuously posted in a public place for fifteen days. The last day for filing applications shall be at least ten days before the date of the examination.

RULE VIII - APPLICATIONS

1. Applications of candidates for positions in the competitive class must be addressed to the Personnel Officer at the office of the Personnel Officer.

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

3. Appointing Officer may see applications; restrictions. 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 an authorized representative, all reference therein to the candidate's national origin or to the basis of his citizenship shall be concealed.

RULE IX - DISQUALIFICATION

1. **Notification of Disqualification**: Any applicant may be disqualified for examination, or after examination, for certification and appointment, who is not in compliance with the standards and requirements set forth in Section 50 (4) of the Civil Service Law.

2. **Verification of Qualifications:** The burden of establishing his qualifications to the satisfaction of the Personnel Officer shall be upon the applicant. Any applicant who refuses to permit the Personnel Officer to investigate matters necessary for the verification of his qualifications or who otherwise hampers, impedes or fails to cooperate with the Personnel Officer in such investigation shall be disqualified for examination or, after examination, for certifications and appointment.

3. **Disrespect of Processes of Law:** A record of disrespect for the requirements and process of law may be grounds for disqualification 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 Personnel Officer 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 instruction 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. **Examinations Prepared and/or Rated by the Municipal Civil Service Commission:** The Personnel Officer 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 Personnel Officer 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 Personnel Officer and in the presence of a designated representative of the Personnel Officer, provided he makes request for such inspection in writing within the period of ten days after the date of the post-mark of such notice. The application and examination papers of a candidate shall be exhibited only to the candidate or his duly authorized representative designated as such in writing. The application of an eligible who is being considered for appointment may be shown to the appointing officer.

5.

a. A candidate who wishes to appeal to the Personnel Officer from his rating in one, or more, or all of the subjects of an examination must submit such appeal in writing within twenty days after the earliest date on which his examination papers were made available for his inspection. Such appeal must show that a manifest error was made in the original rating. Such appeal shall be considered as opening all of the candidate's papers for review, whether resulting in a higher or lower average standing. No change in rating shall be made as a result of an appeal unless it shall affect the candidate's relative position on the eligible list.

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

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

d. Any change in an eligible list pursuant to this rule shall be made without prejudice to the status of any person previously appointed as a result of such examination.

6. Rating keys shall be prepared for each examination held. Such keys shall be a permanent part of the record of each examination.

7. In order to prevent the unauthorized publication and dissemination of examination material, the following acts are prohibited except as authorized by the Personnel Officer.

a. No person shall copy, record, or transcribe any examination question or answer; or remove from the examination room or possess outside the examination room, any question sheet, answer sheet or booklet, scrap papers, notes or any other papers or materials relating to such examination.

b. A candidate in an examination shall not at any time communicate with an examiner concerning the conduct or content of such examination; and shall not directly or indirectly communicate to any other person information concerning the content of such examination until completion of the testing of all candidates.

c. No examiner, proctor, or other person charged with the supervision of a candidate or group of candidates during an examination shall have authority to waive the provisions of this subdivision. A person who is found by the Personnel Officer to have violated the provisions of this subdivision or any similar provision of the rules of any other civil service jurisdiction within the State of New York shall be disqualified from appointment to the position for which the examination is being held and may be disqualified from being a candidate for any civil service examination for a period of five years.

RULE XI - ELIGIBLE LISTS

1. **Passing Grade and Ranking:** 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 Personnel Officer.

2. **Eligible List Establishment:** The date of the establishment of a list shall be the date fixed therefor by the Personnel Officer, and shall be the date fixed therefor by the Personnel Officer, and shall be entered on such list. The duration of all eligible lists shall be fixed by the Personnel Officer 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 Personnel Officer may, prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four years, provided that eligibles on such list are notified in writing of the extension of the eligible list.

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

4. **Eligible List Error Correction:** The Personnel Officer shall have power in his discretion to correct any error and amend any eligible list where it appears that an error has been made.

5. **Eligible List Revocation:** The Personnel Officer 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 and reported to the State Civil Service Commission.

RULE XII - CERTIFICATION

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

2. **Duration of Certification**: A certification issued by the Personnel Officer to an appointing officer shall be valid for a period of 60 days from the date of its issuance. After the expiration of such 60-day period, no appointment shall be made except from a new certification.

3. **Failure to Respond to a Canvass Inquiry**: When an eligible is canvassed for appointment or is offered appointment in writing and fails to state their willingness to accept such appointment within seven (7) business days after the mailing of such canvass or offer, they may be considered ineligible when making selection for such particular appointment. When an eligible fails to respond to two successive canvass letters, their name shall be restricted from further certification from the eligible list. Thereafter, the eligible may request that their name be restored to active status on such list, provided the list is still in existence. The eligible's name may be restored to active status on such list if the Personnel Officer determines that the reasons for the previous non-response are satisfactory.

4. **Certification Declination**: The name of the person declining appointment shall be eliminated from further certification from the eligible list unless declination is for one or more of the following reasons: (a) Insufficiency of compensation offered, (b) Location of employment, (c) Temporary inability, physical or otherwise, which must be satisfactorily explained by the eligible in writing. The Personnel Officer shall enter upon the eligible list the reasons for his action in such cases.

5. **Rule of Three:** 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 eleven.

6. **(a) Nomination to Fill Vacancy After Open-Competitive Examination**: Whenever a vacancy exists in a position in the competitive class and an open-competitive examination duly advertised results in three or fewer approved applicants for the examination, the appointing officer may nominate to the Personnel Officer 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.

   (b) Appointment by Non-Competitive Examination: Whenever no more than two names appear on the open competitive eligible list for appointment to a position or upon the receipt of the results of an open competitive examination wherein no candidates passed the appropriate examination, the appointing officer may nominate a qualified individual for appointment, and such nominee, upon passing an examination appropriate to the duties and responsibilities of the position, may be appointed; or the Commission may designate the eligible list, if there be one, as a continuing eligible list in accordance with section 57 of the Civil Service Law, and insert therein the names of additional eligibles as they are found qualified by examinations held at such intervals as may be prescribed.

   (c) Nomination and Administration of Qualified Incumbent Examinations for NY HELPS Appointees: The Personnel Officer may administer a qualified incumbent examination (QIE) for any position in any title which has been included in the NY HELPS program.

   1. **Eligibility:** An appointing officer shall nominate eligible employees to participate in a QIE. Such QIE may be offered only to incumbents who are currently serving in a designated NY HELPS title and have served a minimum of six months in such position.
   2. **Frequency of Examination:** Such QIEs may be held at such intervals as prescribed by the Personnel Officer. Names of successful candidates shall be interfiled on a continuing eligible list for each title as prescribed by section 57 of the Civil Service Law.
   3. **Content and Scoring of the QIE:** Such examination shall consist of a review of the qualifying service of the nominee. All passing candidates shall be assigned an identical earned numerical rating and shall be deemed equally reachable for permanent competitive appointment from the eligible list resulting from the QIE. No seniority credits shall be awarded to the final earned rating of any candidate.
   4. **Appointments from the QIE:** All incumbents whose names are included on an eligible list created from a QIE must be appointed from such QIE within two months following the addition of their names on the eligible list. All individuals appointed from an eligible list created from a QIE shall obtain a permanent appointment in the competitive jurisdictional class. Such appointment shall not alter or re-set any required period of probation imposed upon the appointee upon original appointment through the NY HELPS program.
   5. **Expiration of Use of QIEs:** No QIE may be administered to any incumbent upon the termination of the NY HELPS program by the New York State Civil Service Commission and no individual may be appointed from a QIE eligible list following termination of the NY HELPS program by the New York State Civil Service Commission.
   6. **QIEs Not Exclusive:** A holding of a QIE or the placement of the name of an incumbent on an eligible list created from a QIE shall not prevent the appointing authority from granting such incumbent a permanent competitive appointment through any other method authorized by the Civil Service Law and these Rules.

7. **Priority in Certification**
    i. An eligible list created from a QIE shall have priority in certification over any open-competitive eligible list for the same title.
    ii. An eligible list created from a QIE shall not have priority in certification over any mandatory promotion eligible list for the same title.
    iii. An eligible list created from a QIE shall not have priority in certification over a duly established preferred list, nor shall the existence of such QIE prevent a transfer, reinstatement or any other lawful permanent appointment to a position filled from such eligible list.
8. **Expiration of Rule:** This rule shall expire upon the termination of the NY HELPS Program by the New York State Civil Service Commission.

7. **Declination for Salary**: 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 afore-said 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. **Restriction on Certification for Reclassified Position**: An open-competitive, promotion or preferred eligible list shall not be certified for filling a permanent competitive class vacancy created by reclassification of a permanently encumbered competitive class position if appointment or promotion from such list would require the lay-off of a permanent competitive class employee; but this provision shall not apply if the incumbent whose position was reclassified following such reclassification, has either refused to take an examination for such reclassified position or twice failed to qualify for appointment, examination or promotion to the reclassified position.

9. When a vacancy exists in a permanent competitive class position and a permanent competitive class candidate in direct line of promotion, as defined in these Rules, is nominated or non-competitive promotion examination in accordance with Section 52 (7) of Civil Service Law, the Personnel Officer may, with the approval of the State Department of Civil Service, determine that the appropriate examination for such non-competitive promotion shall consist of a review of the candidate's training and experience at the time of nomination.

If the Personnel Officer determines the candidate's training and experience meets or exceeds the open competitive qualification for the position, the candidate shall be certified as eligible for permanent promotion appointment to the position subject to probationary period.

10. **Certification of a Waived Examination**: Whenever a vacancy exists in a position in the competitive class and an open-competitive examination duly advertised results in three or fewer approved applicants, and the announced minimum qualifications for the position included a requirement of possession of a license or certificate in a profession issued by the State of New York, the Personnel Officer may waive the examination and certify for appointment to the appointing authority the names of such qualified applicants, provided, however, that such applicants have been licensed or certified in the profession by the State of New York.

RULE XIII - PROMOTIONS

1. **Eligibility for Promotion:** 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. **Successive Nominations for Non-Competitive Class:** Any person who is nominated for non-competitive examination for promotion to a position who fails to pass two successive examinations for such promotion shall

not thereafter by eligible for employment in such position, except by appointment or promotion from an eligible list established following competitive examination.

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

RULE XIV - PROBATIONARY TERM

1. **Probationary Term:**

   a. Except as herein otherwise provided, every permanent appointment from an open competitive list and every original appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight nor more than fifty-two weeks.

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

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

   d. If the conduct or performance of probation 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.

2. **Promotions and Transfers:**

   a. An interdepartmental promotion or transfer means a promotion or transfer from a position in one department to a position in another department. Every interdepartmental promotion or transfer shall be for a probationary term of not less than twelve (12) nor more than twenty-six (26) weeks. If the conduct or performance of the probationer is not satisfactory, his employment in such position shall be discontinued at the end of such term. For the purposes of this subdivision, the term "promotion" shall include the appointment of an employee to a higher-grade position in the non-competitive or exempt class.

   b. An intradepartmental promotion means a promotion from a position within a department to another position within the same department. Every intradepartmental promotion shall be for a probationary term of not less than twelve (12) nor more than twenty-six (26) weeks. If the conduct or performance of the probationer is not satisfactory, his employment in such position shall be discontinued at the end of such term. For the purpose of this subdivision, the term "promotion" shall include the appointment of an employee to a higher grade position in the non-competitive or exempt class.

   c. **Transfers to Positions under Different Appointing Authorities in Different Civil Divisions:** Every transfer from a position in one civil division to a position in another civil division shall require a probationary term of not less than twelve (12) nor more than twenty-six (26) 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. The Personnel Officer shall advise the prospective transferee in writing prior to approval

to the transfer that a probationary term not less than twelve (12) nor more than twenty-six (26) weeks is required and must be successfully completed to obtain permanent status in the position to which transfer is sought. The prospective transferee shall be advised it is his/her responsibility to request a leave of absence from the releasing agency. Unless the prospective transferee obtains a leave of absence, the releasing agency is not required to hold a position for the transferee to return to should the probationary period not be successfully completed.

3. **Restoration to Permanent Position:** When a permanent employee is promoted or transferred *within the same civil division* 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 this previous position at his own election. If the conduct or performance of the probationer is not satisfactory, he shall be restored to his former 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 absences 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.

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

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

9. **Police Officer and Deputy Sheriff Appointments. Hereinafter the term Police Officer shall include Deputy Sheriff:**

   a. Every permanent appointment to a position of Police Officer shall be for a probationary term of not less than eight nor more than seventy-eight weeks. Every permanent appointment to a position of Corrections Officer and Dispatcher shall be for a probationary term of not less than eight nor more than fifty-two weeks.

   b. **Leave of Absence for Police Supervisors:** 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 of the general municipal law. If a police officer is promoted to a higher rank for which he has met all requirements of eligibility for permanent promotion except training requirements applicable under Section Two Hundred Nine-Q of the General Municipal Law, he shall be deemed to be on leave of absence from the lower rank position from which he was promoted pending completion of such training. During such period such lower rank position may not be filled except on a temporary basis. In the event of his failure to complete such training successfully within the time allowed therefor, he shall be restored to such lower rank position.

10. **Probationary Term upon Reinstatement:** 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. An employee who is reinstated to a position after a separation of less than one year in an agency other than the one in which he/she formerly served shall be required to serve a 12 week probationary term.

RULE XV - SEASONAL 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 Personnel Officer 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 a preferred list as provided for in Section 81 of the Civil Service Law.

2. **Trainee Appointment:** The Personnel Officer 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 Personnel Officer. 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 from 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, 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, PROVISIONAL, OR CONTINGENT PERMANENT APPOINTMENT ON STATUS OF APOINTEE

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 class 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 appointment.

3. **Successive provisional appointment:**

    a. A provisional employee who has refused to take an examination for permanent appointment shall not be given another provisional appointment in the same title.

    b. A provisional employee who has twice failed an examination for permanent appointment shall not be given another provisional appointment in the same title, provided, however, that where an examination fails to produce any qualified eligibles, or where an eligible list is depleted of all eligible immediately following its establishment, such employee, at the discretion of the appointing authority, may be given a third and final provisional appointment in the same title.

4. **Contingent permanent appointments:**

    a. A position left temporarily vacant by the leave of absence of the permanent incumbent may be filled, at the discretion of the appointing authority, by a contingent permanent appointment, through the use of an open-competitive or promotional eligible list. Any person appointed on a contingent permanent basis shall have all the rights of a permanent competitive class employee subject to the following limitations:

        i. 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.

ii. **Preferred List:** In the event the permanent incumbent returns from leave of absence, the contingent permanent appointee shall have his/her name placed on a preferred list for the title.

iii. **Layoff:** In the event of a layoff, contingent permanent appointees shall be treated in the manner prescribed in these Rules. Provided, however, that when a contingent permanent appointee matures into a permanent appointment the date of the permanent service shall begin on the date of the original contingent permanent appointment.

iv. **Promotion:** When a permanent competitive class employee accepts a contingent permanent appointment, the position vacated by that employee shall be filled only on a temporary basis until such a time as the contingent permanent matures into a permanent appointment.

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 eligible's name from the eligible list for any future contingent permanent or permanent vacancies.

d. If a permanent vacancy becomes available in the same title in the department or agency in which a contingent permanent appointment has been made, contingent permanent appointees may be offered reassignment, prior to canvassing for a permanent appointment from an appropriate eligible list or prior to appointing a temporary or provisional to the positions.

e. When a position filled by a contingent permanent appointee becomes unencumbered, the contingent permanent appointee in that position shall immediately gain permanent competitive class status in the class if they have completed the required probationary period as prescribed in this Rule.

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 Personnel Officer, 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 Personnel Officer determines that the examination's scopes and qualifications for the positions held and to which appointment is sought are identical; or

2. When the examination's scope 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 the appointment is sought; and

d. The Personnel Officer has determined that such appointment is for the good of the service.

RULE XVIII - REINSTATEMENT

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

All reinstatements are subject to the following terms and conditions:

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

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

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

2. Refusal or Failure to Accept Reinstatement from Preferred List:

a. Relinquishment of eligibility for reinstatement: The failure or refusal of a person on a preferred list, after reasonable notice, to accept reinstatement therefrom to his 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 Personnel Officer for his previous failure or refusal to accept reinstatement.

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

c. **Restoration to eligibility for reinstatement not to affect previous appointment:** The restoration of the name of a person to a preferred list, or his restoration to eligibility for certification therefrom to positions in 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. **Leave of Absence without Pay:** 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 Personnel Officer. Where a leave of absence without pay has been granted for a period which aggregates one year, a further leave of absence without pay shall not be granted unless the employee returns to his position and serves continuously therein for three months immediately preceding the subsequent leave of absence. Notice of such subsequent leave of absence shall also be given to the Personnel Officer.

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

3. **Pending Disciplinary Charges:** Notwithstanding the provisions of this section, when charges of incompetence or misconduct have been or are about to be filed against an employee, the appointing authority may elect to disregard a resignation filed by such employee and to prosecute such charges; and, in the event that such employee is found guilty of such charges and dismissed from the service, his termination shall be recorded as a dismissal rather than as a resignation.

4. **Withdrawal or Amendment of Resignation:** A resignation may not be withdrawn, canceled or amended after it is delivered to the appointing authority, without the consent of the appointing authority,

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

RULE XXI - REPORTS OF APPOINTING OFFICERS

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

a. Every appointment or employment whether probationary, temporary or otherwise, in the classified service, with the date of commencement of service and the title and compensation of the position.

b. Every failure to accept an appointment under him by a person eligible therefor, with copies of the offer or notice of appointment and the reply thereto, if any.

c. Every discharge during or at the end of probationary term with the date thereof.

d. Every vacancy in a position, for whatever reason with the date thereof.

e. Every position abolished, with the date of such abolition.

f. Every change of compensation in a position, with the date thereof.

g. Every promotion, giving positions from which and to which made, with the salaries and date thereof.

h. Every transfer, giving the positions from which and to which made, with the date and salaries thereof.

i. Every reinstatement in a position, with the date and salary thereof.

j. Every leave of absence, with the date and duration thereof.

k. Every new position, giving a complete description of the duties thereof.

RULE XXII - CERTIFICATION OF PAYROLLS

1. **Certification Required Prior to Payment:**

a. No person shall receive salary or compensation until the Personnel Officer has certified his or her employment to be in compliance with the provisions of the Civil Service Law and these Rules.

b. The Personnel Officer shall not certify the name of any person employed in a manner that does not comply with the provisions of the Civil Service Law and these Rules.

2. **Extended Certification:**

   a. The Personnel Officer may certify the employment of a person for a limited or extended period. No further certification shall be necessary for the payment of salary or compensation to such person as long as his or her status, title, and salary grade remain unchanged during the period of the certification granted.

   b. The Personnel Officer shall require certification of the full payroll of every civil division under its jurisdiction at least once every fiscal year, and shall require such certifications according to the following schedule:

Civil Division	Payroll(s) to be Certified:
County	First Full Payroll in January
Towns	First Full Payroll in March
Villages	First Full Payroll in May
School Districts	First Full Payroll in October
All Other Agencies or Special Districts	First Full Payroll in June

   c. The Personnel Officer may, at any time, require any civil division under its jurisdiction to submit payrolls or accounts for certification in accordance with §100(1) of the Civil Service Law.

   d. Annual certifications provided by the Personnel Officer shall be valid for a period of no more than 12 months following the scheduled date of certification established in these Rules. Certifications provided at any other time during the year shall be valid for a period not to exceed the next scheduled certification established in these Rules.

3. **Refusal or Termination of Certification:**

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

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

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

RULE XXIII - CLASSIFICATION PLAN

1. **Definitions Used in Position Classification:** For the purpose of this rule the following definitions shall apply:

   a. **"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, examinations, salary and administering other personnel functions.

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

c. **"Job Classification 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 work activities, enumerates knowledge, skills, abilities and personal characteristics required for successful full performance of the work, states required minimum qualifications and indicates any special requirements of the class.

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

e. **"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. Powers and Duties: The Personnel Officer shall have power and duty to:

a. Classify and reclassify all positions in the civil service of all civil divisions under his jurisdiction.

b. Prepare and maintain job classification specifications for each class of positions in the competitive, non-competitive and labor jurisdictional classes and establish appropriate minimum qualifications for each class.

c. Prepare and maintain a classification plan, including a list of class titles and job classification specifications for each class in the competitive, non-competitive and labor jurisdictional classes of the civil divisions under its jurisdiction.

d. Investigate all matters affecting the classification and reclassification of all positions and from time to time review the duties, responsibilities and qualification requirements of all positions under his jurisdiction and to make revisions in the classification of positions.

3. Classification of Vacant Positions: When a position has become or is about to become vacant, the appointing officer, when requested by the Personnel Officer, shall file a detailed description of the duties and responsibilities of the position and a statement of suggested minimum entrance qualifications for the position with the Personnel Officer. After an analysis of the detailed description of duties and responsibilities, the Personnel Officer 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 including a statement of appropriate minimum qualifications.

4. Classification of New Positions:
When a new position is to be created, the appointing officer shall file a detailed description of the duties and responsibilities of the position with the Personnel Officer, prior to creating the position. After an analysis of the detailed description of duties and responsibilities, the Personnel Officer 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 including a statement of appropriate minimum qualifications.

5. Reclassification of Positions: Either-

a. The Personnel Officer may, upon his own initiative, review the duties and responsibilities and qualification requirements of any position under his jurisdiction. Appointing authorities and employees in positions under review shall be required to complete a detailed description of the duties and responsibilities of the positions and provide such other information as determined necessary by the

Personnel Officer. After an analysis of the detailed description of the duties and responsibilities, the Personnel Officer shall allocate the position to an appropriate class, or, if no appropriate class exists, shall create a new class specification for such position, including a statement of appropriate minimum qualification.

b. Whenever a permanent and material change is made in the duties and responsibilities of any position, the appointing authority shall file a detailed description of the duties and responsibilities of the position with the Personnel Officer. After any analysis of the duties and responsibilities of the position, the Personnel Officer 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 including a statement of appropriate minimum qualifications.

c. Any appointing authority or any employee in the classified service may apply to the Personnel Officer for a position reclassification. Such application shall include a detailed description of the duties and responsibilities of the position since the last determination with respect to its classification. After an analysis of the duties and responsibilities of the position, the Personnel Officer 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 including a statement of appropriate minimum qualifications.

6. **Notice and Appeals:** The Personnel Officer shall give reasonable notice of any proposal or application for a change in classification to the appointing authority and to the employee or employees affected thereby. Any person desiring to submit facts orally or in writing in connection with the reclassification of any position shall be afforded reasonable opportunity to do so. The Personnel Officer 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 - LAYOFF OF COMPETITIVE, NON-COMPETITIVE AND LABOR CLASS EMPLOYEES

1. For the purpose of this rule the following terms shall mean:

a. ***Direct Line of Promotion*** shall be strictly construed in that in order to be considered as direct line all titles must have the same generic root.

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

c. ***Layoff Unit.*** Each department of a county, city, town, or village; each school district; each community college; each special district; and, each authority shall be deemed to be a layoff unit.

d. ***Satisfactory Service*** shall mean service in the last fiscal year by an employee during which he/she did not receive an "Unsatisfactory" performance rating and was not found guilty of misconduct or incompetency pursuant to Section Seventy- five of the Civil Service Law or negotiated disciplinary procedure which resulted in the imposition of any of the following penalties upon such employee:

- Dismissal from the service; or
- Suspension without pay for a period exceeding one month; or
- Demotion in grade and title.

e. **Permanent Service**

- **Original Appointment:** Permanent service shall start on the date of the incumbent's original appointment on a permanent or contingent permanent basis in the classified service; however, in the case of disabled veterans, the date of original permanent appointment is considered to be

sixty months earlier than the actual date, while non-disabled veterans are considered to have been appointed thirty months earlier than their actual date of appointment. For the purposes of this rule the definition of what constitutes a veteran or disabled veteran is contained in Section Eighty-five of the Civil Service Law.

- **Resignation Followed by a Reinstatement or Reappointment:** 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.
- **Temporary or Provisional Service:** Temporary or provisional service preceding the original permanent appointment does not count. However, temporary, provisional or contingent permanent employment immediately preceded and followed by permanent classified service employment does not interrupt continuous service.
- **Seniority of Transferred Employees:** The permanent service of any employee who was transferred from another civil division shall start on the date of his/her original permanent appointment in the classified service in the other civil division.
- **Seniority Date When Covered-In:** If an employee was covered-in to a classified position upon acquisition by a civil division of a private institution or enterprise in which he/she was employed, his/her seniority begins on the effective date of the cover-in. As between that employee and others covered-in on the same date, they shall have the seniority held by them as among themselves in the agency before the cover-in.

2. Suspension

a. When an occupied position in the competitive, non-competitive, or labor 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 backdate his/her permanent service if he/she also happens to be either a veteran or disabled veteran. A person is considered blind if he/she is so certified by the Commission for the Blind and Visually Handicapped of the New York State Office of Children and Family Services.

d. 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.

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

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

g. Probationary employees occupying such positions in the same title, must also be suspended before any permanent employee in the layoff unit in that title who has completed his/her probationary period. Probationary employees do, however, have greater retention rights to those of contingent permanent, temporary, and provisional employees.

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

i. 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.

3. **Vertical Bumping**

   a. Vertical bumping occurs when an employee in a specific title to which there is a direct line of promotion, who is himself/herself suspended or displaced, displaces an employee in the next lower occupied title in direct line of promotion in the same layoff unit having the least seniority if the employee who seeks to displace has greater retention standing.
   b. If an employee refuses to displace a junior incumbent, he/she must be laid off. This, however, does not protect the junior incumbent from being compared in retention standing with other incumbents if other positions at the higher level are being abolished.
   c. 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/she is currently suspended or displaced. Retreat may only occur where the position in the title formerly held by the displacing incumbent is occupied in the same jurisdictional class, in the same layoff unit, and at a lower salary grade; the service of the displacing incumbent while in the former title must have been satisfactory, and the junior incumbent must have less retention standing than the displacing incumbent.
   c. The service of the displacing incumbent in the title to which he/she is retreating need not have been in the same layoff unit as the one from which he/she is displaced.
   d. An employee may also displace by retreat to a position in a title he/she last served on a permanent basis although he/she had intervening service in other title as long as his/her service in each of the intervening titles was on other than a permanent basis. He/she may also displace by retreat to a position, which does not count in the computation of his/her continuous service.
   e. Where a title change has been affected to better describe the duties of a position but the duties have not substantially changed since the suspended employee last served in that title the new title will for retreat purposes be deemed to be the former title.

5. An employee who refuses to accept an appointment afforded by displacement for whatever reason waives all rights regarding the displacement; however, this employee's name will be entered on an appropriate preferred list.

6. 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 XXV - PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION CONCERNING POLITICAL AFFILIATION

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