



RULES
for the
CLASSIFIED CIVIL SERVICE
of the
COUNTY of ERIE
and the
TOWNS, VILLAGES, SPECIAL DISTRICTS
and SCHOOL DISTRICTS
Within the COUNTY

Issued By:
Brian C. Bray
COMMISSIONER of PERSONNEL
COUNTY of ERIE

As Amended and Approved By
STATE CIVIL SERVICE COMMISSION
To
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NOTE: Appendices are issued as a separate supplement.

EXCERPTS FROM STATE CONSTITUTION AND CIVIL SERVICE LAW

STATE CONSTITUTION

ARTICLE V – Officers and Civil Departments

Section 6. Appointments and promotions in the civil service of the state and all of the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, as far as practicable, by examination which, as far as practicable, shall be competitive.

CIVIL SERVICE LAW

Section 20 – Rules

1. Scope of Rules. Each municipal civil service commission (Personnel Officer) shall prescribe, amend, and enforce suitable rules for carrying into effect the provisions of this chapter and of Section six of Article five of the Constitution of the State of New York, including rules for jurisdictional classification of the offices and employments in the classified service under its jurisdiction, for the position classification of such offices and employments, for examinations therefore and for appointments, promotions, transfers, resignations and reinstatements therein, all in accordance with the provisions of this chapter.

2. The rules and any modifications thereof adopted by a county civil service commission or county Personnel Officer shall be valid and take effect only upon approval of the State Civil Service Commission...Such rules shall have the force and effect of law.

Section 100 – Certification of Payrolls

1. Payroll certification required. (a) Except as otherwise provided in this section, no disbursing or auditing officer of the state or of any civil division thereof shall approve or pay or take any part in approving or paying any salary or compensation for personal service to any person holding an office or position in the classified service unless the voucher or payroll therefore bears the certificate of the civil service department or municipal commission (Personnel Officer) having jurisdiction that the persons named therein are employed in their respective position in accordance with law and rules made pursuant to law.

Section 101 – Misdemeanor to Pay Salary or Compensation for Which Certification has been Refused

Any officer who shall willfully pay or authorize the payment of salary or compensation to any person in the classified service with knowledge that the state civil service department or appropriate municipal civil service commission (Personnel Officer) has refused to certify the payroll, estimate or account of such person, or after due notice from such department or commission that such person has been appointed, employed, transferred, assigned to perform duties or reinstated in violation of any of the provisions of this chapter or the rules established thereunder, shall be guilty of a misdemeanor.

RULES FOR THE CLASSIFIED CIVIL SERVICE
OF THE COUNTY OF ERIE AND THE CIVIL
DIVISIONS WITHIN THE COUNTY

PURPOSE AND EFFECT

It is hereby declared to be the purpose of these rules to provide an orderly and uniform system for the administration of Civil Service in the County of Erie on a basis of merit and fitness as provided in the Civil Service Law of the State of New York. These rules have the force and effect of law, and apply to all positions in the classified service of the County of Erie as well as the towns, villages, special districts, community colleges, public authorities, and school 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.

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. "Personnel Officer" means the personnel officer of the County of Erie.
2. "Employee" means the incumbent of a position holding the position, or multiple positions where authorized, in accordance with these rules and the Civil Service Law.
3. "Position" means an office or employment involving an aggregation of duties to be performed and responsibilities to be exercised by one employee as described in the job classification specification or duties statement.
4. "Compensation" means the remuneration of a position and shall include food, lodging, maintenance and commutation when the same is furnished.
5. "Eligible List" means an official record kept in the Personnel Office as a public record which contains the names of those persons who have successfully completed examinations, listed and ranked in order of their final ratings from the highest to the lowest rank.
6. "Part-time Employment" means any employment or a combination of one or more employments in a civil division in which an individual works less than fifty percent of the time prescribed as a normal work week by the appropriate governing body or other appropriate authority of the civil division.
7. "Transfer" means the change, without further examination of a permanent employee from a position under the jurisdiction of one appointing authority to a similar position under the jurisdiction of another appointing authority, or to a position in a different title in the same appointing authority...
8. "Reassignment" means the change, without further examination, of a permanent employee from one position to another similar position under the jurisdiction of the same appointing authority.
9. "Civil Division" means county, town, village, special district, school district, community college, or public authority.

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

RULE II

POWERS 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 or employees within available appropriations as (s)he deems necessary or proper to carry out the purposes of these rules and the law, and shall fix the duties of such subordinates and employees.

RULE III

EXEMPT CLASS

1. Positions in the exempt class are those for which competitive or non-competitive examinations or other qualifications requirements are not practicable. (Civil Service Law, Section 41)
2. Positions in the exempt class shall be listed in Appendix A of these rules and made a part hereof.

RULE IV

NON-COMPETITIVE CLASS

1. A position in the non-competitive class may be filled by the appointment of a person who meets the minimum qualifications established for such position by the 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. (Civil Service Law, Section 42)
2. Positions in the non-competitive class shall be listed in Appendix B of these rules and made a part hereof.
3. The Personnel Officer shall designate titles in Appendix B that involve confidentiality or require the performance of functions influencing policy for the purposes of excluding such positions from the statutory provisions on removal and disciplinary proceedings.

RULE V

LABOR CLASS

1. 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. (Civil Service Law, Section 43)
2. 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. (Civil Service Law, Section 35)

RULE VII

RECRUITMENT OF PERSONNEL

1. Residence requirements for municipal positions.

An applicant must be at the time of examination, and for at least one month prior thereto, and at the time of appointment, 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 or reduced by the Personnel Officer where such requirements are disadvantageous to the public interest.

2. Where preference in certification is given to residents of a municipality pursuant to Subdivision 4(a) of Section 23 of the Civil Service Law, an eligible must have been a resident of such municipality for at least one month prior to the date of certification in order to be included in a certification as a resident of such municipality and must be a resident of such municipality at the time of appointment. All changes in residency will become effective on the 15th calendar day of the month following the receipt of written notification to the Commissioner of Personnel.

RULE VIII

APPLICATIONS

1. Applications of candidates for positions in the classified service must be addressed to the Personnel Officer at the Office of the Personnel Officer.
2. The Personnel Office shall notify each applicant of the disposition of his/her application. Approved applicants for competitive examination shall be given notice of the approval at least four days before the examination, by mail, e-mail or other electronic means to the address stated in the application.
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.
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.
5. The burden of establishing qualification 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 such applicant's qualification 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 certification and appointment.

RULE IX

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 instructions on the written examination. Where the written test is prepared and rated by the State Civil Service Commission in accordance with Section 23, subdivision 2 of the Civil Service Law, the provisions of the rules and regulations of the State Civil Service Commission and Department dealing with the rating of examinations shall apply.
2. The 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/her final rating and, if successful, of his/her relative position of the eligible list established as a result of the examination. Any candidate receiving such notice, or his/her duly authorized representative, may inspect his/her examination papers in the office of the Personnel Officer and in the presence of a designated representative of the Personnel Officer, provided (s)he makes request for such inspection in writing within the period of ten days after the date of the postmark of such notice. The application and examination papers of a candidate shall be exhibited only to the candidate or his/her duly authorized representative designated as such in writing. The application of an eligible who is being considered for appointment may be shown to the appointing officer.
5. (a) A candidate who wishes to appeal to the Personnel Officer from his/her rating in one, or more, or all of the subjects of an examination must submit such appeal in writing within twenty days after the earliest date on which his/her examination papers were made available for his/her inspection. Such appeal must show that a manifest error was made in the original rating. Such appeal shall be considered as opening all of the candidates' 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

examination 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 from such eligible list.

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

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

(a) No person shall have in his or her possession, 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 directly or indirectly communicate to any other person information concerning the content of such examination until completion of the testing of all candidates.

No examiner, proctor or other person charged with the supervision of a candidate or group of candidates during an examination shall have authority to waive the provisions of this Section 7.

The Personnel Officer may disqualify any candidate from eligibility for any examination, or refuse to certify any eligible for any position, who has ever been found to have violated the provisions of this Section 7 or any similar provision of the rules of any civil service jurisdiction within the State of New York in connection with any examination to qualify for employment with any public employer within the State of New York, for a period of five years.

RULE X

ELIGIBLE LISTS

1. Every candidate who attains a passing grade 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 (s)he was examined and his/her name shall be entered on the eligible list in the order of his/her final rating; but if two or more eligibles receive the same final grade in the examination, they shall be ranked in accordance with such uniform, impartial procedure as may be prescribed by the Personnel Officer.
2. The date of the establishment of a list shall be the date fixed by the Personnel Officer resolution, and shall be entered on such list. The duration of all eligible lists shall be fixed by a Personnel Officer resolution prior to the establishment of such lists, but shall not be less than one or more than four years. The date of establishment of a list and its minimum duration shall be given to all successful candidates at the time that notice of standing on the eligible list is given to such candidates. When the duration of an eligible list is fixed at less than four years, the Personnel Officer may, by resolution,

prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four years, provided that eligibles on such list are notified in writing of the extension of the eligible list.

3. Eligible lists shall be open to public inspection at the office of the Personnel Officer. The names of persons who failed to receive a passing examination grade shall not be disclosed to the public.
4. The Personnel Officer shall have power in his/her discretion to correct any error and amend any eligible list where it appears that an error has been made. The Personnel Office 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 by the Personnel Officer and reported to the State Civil Service Commission.

RULE XI

CERTIFICATION

1. 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. A certification issued by the Personnel Officer to an appointing officer shall be valid for a period of up to 60 days from the date of its issuance. After the expiration date determined by the Personnel Office, no appointment shall be made, except by a new certification. The Personnel Officer, for good cause shown, may, prior to the original deadline, extend a certification up to a maximum of two thirty-day extensions upon request of an appointing authority.
3. When an eligible individual is canvassed for appointment or tendered an offer of appointment, such canvass or offer shall be transmitted in writing by mail unless the eligible has previously indicated a willingness to be canvassed by electronic means, including email.
4. When an eligible is canvassed for appointment or is offered appointment in writing and fails to state his/her willingness to accept such appointment within five business days after the mail of such canvass or offer, (s)he may be considered ineligible for purpose of making selection for such particular appointment.
5. 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; (d) other reason deemed acceptable by the Personnel Officer. The Personnel Officer shall enter upon the eligible list the reasons for his/her action in such cases.
6. 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 final rating of the third highest ranking eligible on the list indicating willingness to accept such appointment. The term “ranking” as used herein refers to the order in which the names of eligibles appear on the eligible list.

7. 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 (s)he has already qualified in an examination of equivalent character within the last four years from the date of nomination.

(a) 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 Personnel Officer 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.

(b) 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.

8. Wherever 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/her appointment beyond that offered to the persons so declining.
9. No open competitive, promotional, or preferred eligible list shall be certified for filling a vacancy created by reclassification of an encumbered position where appointment from such list would require the layoff of an employee; but this provision shall not apply if the incumbent whose position was reclassified has, following such reclassification, failed to appear for or refused to take an examination for such reclassified position, or has twice failed to qualify for appointment or promotion to such position.
10. Whenever a vacancy exists in a position in the competitive class and an open-competitive examination duly advertised results in three or fewer approved applicants, and the announced minimum qualifications for the position included 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 XII

PROMOTIONS AND DEMOTIONS

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

An employee who voluntarily elects to relinquish his/her permanent competitive class status to a position and accept a demotion, must deliver a statement of relinquishment to the appointing authority. Upon receipt of the statement of relinquishment by the appointing authority, the employee may be reinstated to any vacant lower salary level position for which (s)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.

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

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

RULE XIII

PROBATIONARY TERM

1. (a) Except as otherwise provided in these rules, every permanent appointment from an open-competitive list and every permanent appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight (8) nor more than twenty-six (26) weeks, with the exception of the following titles:
 - i. Titles subject to a probationary period of not less than twelve (12) weeks nor more than fifty-two (52) weeks:

Assistant Superintendent of Buildings and Grounds
Assistant Supervisor of Transportation
Business Manager (School Districts)

Caseworker
Caseworker (Social Services) 55A
Caseworker (Spanish Speaking)
Child Support Investigator
Correction Officer
Employment Counselor
Employment Counselor-Spanish Speaking
Energy Crisis Worker I-Part Time
Energy Crisis Worker II-Part Time
Manager of Financial and Computer Services (Schools)
Probation Officer
Probation Officer Trainee
School Lunch Manager
Social Welfare Examiner
Social Welfare Examiner (Social Services) 55A
Social Welfare Examiner (Spanish Speaking)
Superintendent of Buildings and Grounds
Supervisor of Transportation
Youth Detention Worker-Part Time

ii. Titles subject to a probationary period of not less than twelve (12) weeks nor more than seventy-eight (78) weeks:

Deputy Sheriff-Criminal
Deputy Sheriff-Criminal (Spanish Speaking)
Deputy Sheriff-Criminal (Seneca Speaking)
Police Officer

(b) The probationary term for trainee positions, in which an appointee is required to serve a specified training term, shall be not less than twelve (12) weeks nor more than one year. Such positions shall be designated by the Personnel Officer.

(c) The probationary terms for the titles included in Appendix F shall be for a probationary term of not less than twelve (12) weeks or more than fifty-two (52) weeks.

(d) The probationary term for the titles included in Appendix G shall be for a probationary term of not less than twelve (12) weeks or more than seventy-eight (78) weeks.

(e) Except for titles included in Appendices F and G, the probationary term for promotion from a promotional list shall be for a period of eight (8) to twenty-six (26) weeks. Upon written notice of the appointing authority the probationary period upon promotion may be waived and the appointee given a permanent appointment, except for appointments made in accordance with Rule XII (4).

(f) 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 Personnel Officer.

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 in the manner prescribed in these rules.

2. Report on Probationer's Service.

The appointing authority and supervisor of a probationer will carefully evaluate the probationer's work performance of the duties and responsibilities of the position. A probationer whose services are to be terminated for unsatisfactory service shall be given written notice prior to such termination and, upon request, shall be granted an interview with the appointing authority or his/her representatives.

3. Restoration to Permanent Position.

When a permanent employee is promoted to a position in which (s)he 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 at his/her own election. If the conduct or performance of the probationer is not satisfactory, (s)he shall be restored to his/her former permanent position at the end of his/her probationary term.

4. Absence During Probationary Term.

Any period of authorized or unauthorized absence aggregating up to ten work days during the probationary term, may in the discretion of the appointing authority, be considered as time served in the probationary term. Any such periods of absence not so considered by the appointing authority as time served in the probationary term, and any periods of absence in excess of periods considered by the appointing authority as time served in the probationary term pursuant to this subdivision shall not be counted as time served in the probationary term. The minimum and maximum periods of the probationary term of any employee shall be extended by the number of work days of his/her absence which, pursuant to this subdivision, are not counted as time served in the probationary term.

5. Temporary or Provisional Service in the Higher-Level Position.

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

6. 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 seventy-five of the Civil Service Law or alternative negotiated disciplinary procedure, to remove a probationer for incompetency or misconduct at any time during the probationary term.

7. Training Course for Permanent Appointment or Promotion of Police Officers.

Notwithstanding any other provisions of these rules, the appointment or promotion of a police officer shall not become permanent unless and until (s)he has satisfied such requirements as may be applicable to him/her under Section Two Hundred Nine(q) of the General Municipal Law. If a police officer is promoted to a higher rank for which (s)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, (s)he shall be deemed to be on leave of absence from the lower rank position from which (s)he was promoted pending completion of such training. During this period such lower rank position may not be filled except on a temporary basis. In the event of his/her failure to complete required training successfully within the time allowed therefore, (s)he shall be restored to such lower rank position.

8. Reinstated Employees.

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

9. Restoration to Eligible List.

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

RULE XIV

SEASONAL AND EMERGENCY DEFENSE APPOINTMENTS

Appointment to Seasonal Positions in the Classified Service

1. Positions in the classified service where the nature of service is such that it is not continuous throughout the year, but which may total as much as five months of continuous service and which recurs in each successive year, except as herein otherwise provided, shall be designated as seasonal positions and shall be subject to the provision of these rules applicable generally to positions in such class.
2. Any position in a civil defense agency or any position created in a governmental agency to perform civil defense or other national emergency functions, which is unique and peculiar to civil defense or national emergency activities and which is not comparable to any regular, standard position in the classified civil service, may be designated, with the consent of the Personnel Officer and upon the approval of the State Civil Service Commission, as an emergency defense position. No position involving conventional and stable duties of the nature of those performed in a regular and normal function of civil government, or having as a counterpart a position in any regular, established

department or agency of civil government shall be designated as an emergency defense position. An emergency defense position may be filled on a temporary basis for a period not to extend beyond the duration of the New York State Emergency Defense Act. Appointments to such positions shall be designated as emergency defense appointments.

Any permanent employee who, with the consent of his/her appointing officer, accepts an emergency defense appointment under this sub-division shall be granted a leave of absence from his/her permanent position until the termination of such appointment.

RULE XIV-a

TRAINEE APPOINTMENTS

The Personnel Officer may require that permanent appointments to designated positions shall be conditioned upon the satisfactory completion of a term of service as a trainee in a appropriate, lower, training title and, where required, the completion of specified academic courses. 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 academic 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 at the end of the term of training service if his/her conduct, capacity or fitness is not satisfactory, or at any time during the term of training service if (s)he fails to pursue or continue satisfactorily such academic courses as may be required.

RULE XV

EFFECT OF TEMPORARY OR PROVISIONAL OR CONTINGENT PERMANENT APPOINTMENT ON STATUS OF APPOINTEE

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

The acceptance by an eligible of a temporary appointment shall not affect his/her standing on the eligible list for 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/her shall not be filled on other than a temporary basis pending his/her reinstatement thereto upon failure of his/her provisional appointment to mature into permanent appointment.

3. Successive provisional appointment

(a) No provisional employee who has refused to take an examination held for permanent appointment shall be given another provisional appointment in the same titled position. No provisional employee who fails two examinations for permanent appointment shall be eligible for provisional appointment in the same title under the same appointing authority. For the purpose of this rule, a failure to appear for an appropriate examination shall constitute a refusal to take an appropriate examination.

- (b) The term of provisional appointment shall end upon establishment of an appropriate eligible list for the position as prescribed in section sixty five of the Civil Service Law or upon receipt of the results of examination wherein no candidates passed the appropriate examination. The provisional appointee may be authorized another provisional appointment at the discretion of the Personnel Officer of the eligible list contains fewer than three eligibles from which to make a permanent appointment to the position.

4. Contingent Permanent Appointments

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

- 1. Probationary Period: All appointments under this rule shall be required to complete the probationary period for original appointment or promotion as prescribed in these rules.

- 2. Return of Incumbents: In the event of layoff or if the permanent incumbent returns from leave of absence, persons holding positions on a contingent permanent basis shall be displaced before any persons holding permanent status in the same title, regardless of total seniority. In the event that more than one position in the same title is held by persons having contingent permanent appointment, displacement among those persons shall be based on the inverse order of their contingent permanent appointments.

- 3. Preferred List: Upon displacement, if the contingent permanent appointment was made from a promotion eligible list, he/she shall be restored to his/her permanent position and have his/her name placed on a preferred eligible list, for certification as a mandatory list only to the department or agency in which the contingent permanent appointment was made. If the contingent permanent appointee was appointed from an open-competitive eligible list and does not have a permanent position to return to, (s)he shall have his/her name placed on a preferred 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 basis until the contingent permanent appointment 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 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, the most senior contingent permanent appointee in that title shall immediately gain permanent competitive class status in the class if the required probationary period, as prescribed in this rule, has been satisfactorily completed.

RULE XVI

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

RULE XVII

REINSTATEMENT

- 1. A permanent employee who has resigned or retired from his/her position may be reinstated without examination within one year from the date of such resignation or retirement in the position from which (s)he resigned or retired, if then vacant, or in any vacant position to which (s)he was eligible for transfer or reassignment. In computing the one-year period within which a person may be reinstated after the resignation, the day the resignation takes effect, any time spent in active service in the military or naval forces of the United States or of the State of New York, and any time served in another position in the civil service of the same municipality shall not be considered. In the exceptional case, the Personnel Officer may, for good cause shown and where the interest of the government would be served, waive the provisions of this rule to permit the reinstatement of a person to his/her former position more than one year after resignation. For the purpose of this rule, where an

employee on leave of absence resigns, such resignation shall be deemed effective as of the date of the commencement of such leave.

2. Refusal or failure to accept reinstatement from preferred list to a position in the same department from which laid off.
 - (a) Relinquishment of eligibility for reinstatement: The failure or refusal of a person on a preferred list, after reasonable notice, to accept reinstatement therefrom to his/her former position, or to any similar position in the same salary grade in the same department from which the person was laid-off for which such a list is certified, shall be deemed to be a relinquishment of his/her eligibility for reinstatement, and his/her name shall thereupon be stricken from such preferred list. The name of such person may be restored to such preferred list, and certified to fill such appropriate vacancies as may thereafter occur only upon the request of such person and his/her submission of reasons satisfactory to the Personnel Officer for his/her previous failure or refusal to accept reinstatement.
 - (b) Effect of refusal to accept reinstatement in different county department: A person on a preferred list shall not be deemed to relinquish his/her eligibility for reinstatement therefrom by reason of his/her failure or refusal to accept reinstatement to a position in a different county department than that of his/her former position. In such event, however, the name of such person shall be withheld from further certification for reinstatement to such other vacancies as may occur in any county department other than that of his/her former position.
 - (c) Effect of refusal to accept reinstatement to lower grade position: A person on a preferred list shall not be deemed to relinquish his/her eligibility for reinstatement therefrom by reason of his/her failure or refusal to accept reinstatement to a position in a lower salary grade than the position from which (s)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 (s)he failed or refused to accept reinstatement.
 - (d) Restoration to eligibility for reinstatement not to affect previous appointments: The restoration of the name of a person to a preferred list, or his/her restoration to the eligibility for certification there from to positions in a lower salary grade than his/her former position, shall not invalidate or in any manner adversely affect any appointment, promotion, reinstatement or demotion previously made to any position to which such person would otherwise have been eligible for reinstatement from such preferred list.
 - (e) An employee may not be reinstated to a class title for which a preferred eligible list is established.

RULE XVIII

LEAVE OF ABSENCE

1. A leave of absence without pay may be granted by the appointing authority in conformance with the regulations established by the appropriate legislative body, provided however, that a permanent competitive class employee may not encumber a permanent competitive class position by a leave without pay while holding a permanent appointment in another position in the civil service of the same municipality.
2. 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/her 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. Absence on leave for more than one year shall be deemed the equivalent of a resignation from the service upon the date of commencement of such absence, except as provided in subdivision 3 of this rule.

3. 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 the leave.
4. A leave of absence without pay, not to exceed four years, shall be granted by an appointing officer to an employee who is a veteran of the Armed Forces of the United States, providing such a leave of absence is for the purpose of taking courses under the educational benefits provided for in Title 38, United States Code, or under a New York State Board of Regents War Service Scholarship, Education Law, Section 614. An employee taking such a leave shall be reinstated to his/her position, provided (s)he makes application for such reinstatement within sixty days after the termination of his/her course of study.
5. The Personnel Officer may waive the provisions of this Rule to permit an extension of the leave of absence for good cause shown and where the interests of the government would be served.

RULE XIX

RESIGNATION

1. Resignation in Writing.

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

2. Effective Date.

If no effective date is specified in a resignation, it shall take effect upon delivery to or filing with the appointing official. If an effective date is specified in a resignation, it shall take effect on such specified date. However, if a resignation is submitted while the employee is on leave of absence without pay, such resignation, for the purpose of determining eligibility for reinstatement, shall be deemed to be effective as of the date of the commencement of such absence. Notwithstanding the provisions of this section, when charges of incompetence or misconduct have been or are about to be filed against an employee, the appointing official may elect to disregard a resignation filed by such employee and to prosecute such charges; and, in the event that such employee is found guilty of such charges and dismissed from the service, his/her termination shall be recorded as a dismissal rather than a resignation.

3. Withdrawal or Amendment.

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

RULE XX

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 services 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 services, with the date of commencement of service and the title and compensation of the position.
- (b) Every failure to accept an appointment under him/her by a person eligible therefore, with copies of the offer or notice of appointment and the reply thereto, if any.
- (c) Every discharge during or at the end of probationary term with the date thereof.
- (d) Every vacancy in a position, for whatever reason, with the date thereof.
- (e) Every position abolished, with the date of such abolition.
- (f) Every change of compensation in a position, with the date thereof.
- (g) Every promotion, giving positions from which and to which made, with the salaries and date thereof.
- (h) Every transfer, giving the positions from which and to which made, with the date and the salaries thereof.
- (i) Every reinstatement in a position, with the date and the 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 XX-a

SERVICE RATINGS

Periodic, systematic service record reports regarding the performance and conduct of employees in the competitive, non-competitive and labor classes shall be filed with the Personnel Officer in such form and at such periods as may be prescribed by the Personnel Officer, and such performance ratings may be used as a factor in promotion examinations.

RULE XXI

CERTIFICATION OF PAYROLLS

1. Extended Certifications.

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, so long as his/her title and salary grade remain unchanged during such stated period, except as to the first payment for each half of the fiscal year or the first payment for each quarter of the fiscal year, as required by the Personnel Officer. Nothing herein shall be construed to prevent or preclude the Personnel Officer requiring the certification of each payroll period, where deemed necessary, nor from terminating or rescinding a certification at any time by giving notice thereof to the appropriate fiscal or disbursing officer.

As provided in Article 7, Title B, Section 100, "Certification of Payrolls", 2, "Extended Certification" of the Civil Service Law, the County of Erie designates the sixth full payroll period of the fiscal year as that payroll period to be used for the annual certification of payrolls of employees employed by Erie County.

2. Temporary Certifications.

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

3. Refusal or Termination of Certification.

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

RULE XXII

CLASSIFICATION PLAN

1. Definition. 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, establishing salary ranges, 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) "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 work activities of positions in the class, enumerates the knowledge, skills, and abilities required for full performance of the work and states required minimum qualifications and special requirements for the positions in the class.

(d) "Classification" 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 retitling of a position from one class to another because of a permanent and material change of the duties of that position.

2. The Personnel Officer's Duties and Responsibilities for Position Classification.

(a) The Personnel Officer shall classify and reclassify all positions in the civil service of all municipalities under its jurisdiction.

(b) The Personnel Officer shall 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) The Personnel Officer shall 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 its jurisdiction and to make revisions in the classification of positions.

3. Classification of Vacant Positions. The Appointing Officer shall file a prescribed form with the Personnel Officer when a classified position in the County which has been or is about to become vacant is to be filled. Such form shall contain a detailed description of the duties and responsibilities of the position to be filled and a statement of suggested minimum entrance qualifications for the position. After an analysis of the position description, the 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.

4. Classification of New Positions. The appointing officer shall file a prescribed form with the Personnel Officer 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 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.

5. Reclassification. The appointing officer shall file a prescribed form with the Personnel Officer whenever a permanent and material change is made in the duties and responsibilities of any position. Such form shall clearly describe in detail the changes which have been made in the duties of the position. After an analysis of the changes in the duties and responsibilities of the position, the 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.

6. Notice and Appeals. Any appointing officer may make application for the classification or reclassification of any position in his/her department, or any employee in the classified service may apply for a reclassification of his/her position. Such application must set forth reasons in support of the requested reclassification, and must show change in the duties and responsibilities of the position since the last determination with respect to its classification. The Personnel Officer shall give reasonable notice of any proposal of application for a change in classification to the appointing officer and to the employee or employees affected thereby. Any person desiring to submit facts orally or in writing in connection with the reclassification of any position shall be afforded reasonable

opportunity to do so. The 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 XXIII

PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION CONCERNING POLITICAL AFFILIATION

No question in any application or other proceeding by the Personnel Officer 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 discounted by the Personnel Officer. No discrimination shall be exercised, threatened, or promised against or in favor of any applicant, competitor, or eligible because of his/her political opinions or affiliations.

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 shall mean each department of the County. Each town, each village, each school district, each special district and each authority are separate layoff units. Authorities shall be deemed to be separate civil divisions.
 - (d) Satisfactory Service shall mean service in the last fiscal year by an employee during which (s)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 or alternative disciplinary action under a negotiated labor agreement, which resulted in the imposition of any of the following penalties upon such employees:
 - (i) dismissal from the service, or
 - (ii) suspension without pay for a period exceeding one month, or
 - (iii) demotion in grade and title.
 - (e) Permanent Service
 - (i) Permanent Service shall start on that date of the incumbent's original appointment on a permanent basis or contingent permanent 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 re-employment; the prior service would not count.

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

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

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

(c) A person is considered blind if (s)he is so certified by the Commission for the Blind and Visually Handicapped of the New York State Social Service Department.

(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 the eligible list from which they were appointed; 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 (s)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.
- (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 (s)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 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. Retreat may occur when and only when there is no lower occupied position in the direct line of promotion at any level.
- (c) The service of displacing incumbent in the title to which (s)he is retreating need not have been in the same layoff unit as the one from which (s)he is displaced.
- (d) An employee may also displace by retreat to a position in a title in which (s)he last served on a permanent basis although (s)he had intervening service in other titles as long as his/her service in

each of the intervening titles was on other than a permanent basis. (S)he 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. Preferred list standing for competitive class employees shall be as follows:
 - (a) Blind employees whose positions are abolished shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service, whether or not they are also disabled veterans or non-disabled veterans; provided, however, that the blind shall be granted absolute preference on the preferred list over all other employees.
 - (b) Disabled veterans whose positions are abolished shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service; provided however, that the date of such original appointment shall be deemed to be 60 months earlier than the actual date determined in accordance with Section 30 of the General Construction Law.
 - (c) Non-disabled veterans whose positions are abolished shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service; provided, however, that the date of such original appointment shall be deemed to be 30 months earlier than the actual date, determined in accordance with Section 30 of the General Construction Law.
 - (d) Non-veterans whose positions are abolished shall have their preferred list standing determined by the date of their original appointment on a permanent basis in the classified service.
- 7. An appointing authority may take such steps as (s)he may deem necessary in order to secure binding written commitments from employees in advance of suspension, demotion, or displacement as to their willingness to accept reassignment or displacement.

These are rules as approved by the State Civil Service Commission and amended to March 28, 2025.

BRIAN C. BRAY
Personnel Officer
County of Erie