

# DISCLAIMER

The following document is currently under review and may contain inaccuracies.

Please be aware that this information is informal and advisory. Thank you.

\*\*\*\*\*

RULE I  
DEFINITIONS

The terms hereinafter mentioned whenever used in these Rules, shall be construed as follows:

1. "APPOINTING OFFICER" means the officer, commission or body having the power of appointment to subordinate positions.
2. "BULLETIN" means a summary of several current civil service examination announcements.
3. "COMMISSION" means the Civil Service Commission of the County of Nassau.
4. "COMPENSATION" means the remuneration of a position and shall include food, lodging, maintenance and commutation when the same is furnished.
5. "DUAL EMPLOYMENT" means a work arrangement wherein a public employee encumbers two positions which entail different and distinct working schedules.
6. "ELIGIBLE LIST" means an official record kept in the Commission's office as a public record which contains the names of those persons who have successfully completed examination, listed and ranked in order of their final ratings from the highest to the lowest rank.
7. "EMPLOYEE" means the incumbent of a position, holding the position in accordance with these rules and the civil service law.
8. "GRADE" refers to the division of any group or subdivision upon the basis of salary or compensation received.<sup>33</sup>
9. "MUNICIPALITY" means a civil division, including the County, town, village, school district or special district, under the jurisdiction of the Commission.
10. "PART-TIME EMPLOYMENT" means any employment in one or more positions of 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 or wherein the employee earns less than half of the rate assigned to the position if the position has been allocated to a graded salary schedule.
11. "POSITION" means an office or employment involving an aggregation of duties to be performed and responsibilities to be exercised by one person.

12. "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.

13. "SCHOOL DISTRICT" means an administrative unit providing elementary and/or high school education, governed by an elected Board of Education.

14. "SPECIAL DISTRICT" means and includes designated administrative units within the County which have been established to provide specific improvements or perform a specific service.

15. "STATE COMMISSION" means the New York State Civil Service Commission.

16. "SUBSTITUTE EMPLOYMENT" means part-time employment which is performed on an occasional, irregular basis in an otherwise encumbered position; this shall not be considered a permanent appointment, but shall be considered temporary in nature.

17. "TOWN" means a local unit of government operated by a Town Board.

18. "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.

19. "VILLAGE" means a local unit of government created through local incorporation and operated by an elected Board of Trustees headed by a mayor or manager.

## RULE II

### ORGANIZATION OF THE COMMISSION

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

## RULE III

### CLASSIFICATION OF THE CIVIL SERVICE

The Civil Service of the County or of any civil division thereof shall consist of the unclassified service and the classified service. (Section 35 and Section 40 of the Civil Service Law)

RULE IV  
CLASSIFIED SERVICE

The classified service shall comprise all offices and positions not included in the unclassified service. The offices and positions in the classified service shall be divided into four classes, to be designated as the exempt class, the non-competitive class, the labor class, and the competitive class.

## RULE V

### EXEMPT CLASS

1. Positions in the exempt class shall be those set forth in Section 41 of the Civil Service Law.
2. Positions in the exempt class shall be listed in Appendix A of these rules and made a part thereof.

## RULE VI

### NON-COMPETITIVE CLASS

1. Positions in the non-competitive class shall include all positions that are not in the exempt class or the labor class and for which it is found by the Commission having jurisdiction to be not practicable to ascertain the merit and fitness of applicants by competitive examination. Appointments to such positions shall be made only after such non-competitive examination as is prescribed by the Commission. (Section 42 of the Civil Service Law)
2. Positions in the non-competitive class shall be listed in Appendix B of these rules and made a part thereof.



## RULE VII

### LABOR CLASS

1. The labor class shall include unskilled laborers. (Section 43 of the Civil Service Law)
2. A position in the labor class may be filled by the appointment of any person selected by the appointing officer of the agency where a vacancy exists, and the Commission may require applicants for employment in the labor class to qualify in such tests of their fitness for employment as may be deemed practicable.
3. Positions in the labor class shall be listed in Appendix D of these rules and made a part thereof.

RULE VIII  
UNCLASSIFIED SERVICE

The unclassified service shall comprise the following:

- a. All elective officers
- b. All election officers
- c. The head or heads of any department
- d. All officers and employees of the Board of Supervisors and of the County Executive
- e. Members of all boards or commissions
- f. All other officers or positions specifically mentioned in Section 35 of the Civil Service Law.

The positions in the unclassified service shall be listed in Appendix C of these rules and made a part thereof.

RULE IX  
COMPETITIVE CLASS

The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examinations, and shall include all positions now existing or hereafter created, of whatever functions, designations or compensation, in each and every branch of the classified service except such positions as are in the exempt class, the non-competitive class or the labor class. (Section 44 of the Civil Service Law)

RULE X  
RECRUITMENT OF PERSONNEL

**1. Residence requirements for County positions.**

Residence requirements for positions in County Government shall be those as are set forth in Section 13-1.0, Chapter 13 of the Nassau County Administrative Code, with the exception that members of the Police Force shall be governed by the requirements set forth in the Public Officers' Law.

**2. Residence requirements for civil divisions within the jurisdiction of the Nassau County Civil Service Commission.**

Every applicant for competitive examination, other than a police officer examination, must be a resident of the County of Nassau for at least one year immediately preceding the date of the examination. Residence requirements may be suspended or reduced by the Commission in cases where the Commission determines that recruitment difficulty make such requirements disadvantageous to the public interest.

**3. Citizenship requirements for appointment.**

An applicant for competitive examination or competitive employment need not be a citizen of the United States unless applying for a position as a Public Officer.

**4. Announcements of examinations.**

The public announcement of an examination shall specify the application fee, if any, the title, salary or salary range, the duties of the position, the minimum qualifications required, the final date for filing applications, the subjects or scope of the examination and the relative weights thereof. 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 XI  
APPLICATIONS

1. Application of candidates for positions must be addressed to the Commission at the office of the Commission. Applications nominating individuals for appointment must be approved by the Commission before employment commences.
2. Applicants for competitive examination shall be given notice of the disposition of their applications at least four days before the examination, by mail to the address stated in the application, or one day's notice by telegram.
3. A candidate shall not be admitted to an examination or any part thereof whose application therefore has not been presented and accepted in accordance with rules and whose identity has not been established via an appropriate form of photographic identification and/or use of multiple signature identification, and/or been fingerprinted.

RULE XII  
DISQUALIFICATIONS

1. 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, applicants may be disqualified pursuant to the provisions of Section 50 of the Civil Service Law.
2. A record of disrespect for the requirements and processes of law including repeated traffic offenses, or disregard of summonses for traffic offenses, may be grounds for disqualification for examination or, after examination, for certification and appointment.
3. The burden of establishing qualifications to the satisfaction of the Commission shall be upon the applicant. For the purpose of meeting the training and experience requirements of any open competitive examination, no credit shall be given for any work experience which is determined by the Commission to have been gained or acquired in violation of the provisions of the Civil Service Law or in positions for which payroll certification has not been granted or has been withheld or which experience is deemed to have been gained through out of title work. Any applicant who refuses to permit the Commission to investigate matters necessary for the verification of such applicant's qualifications or who otherwise hampers, impedes or fails to cooperate with the Commission in such investigation shall be disqualified for examination or, after examination, for certification and appointment.
4. Investigation of the qualifications and background of an eligible may be made after he is appointed, and, upon finding facts which, if known prior to appointment, would have warranted disqualification, or upon a finding of illegality, irregularity or fraud of a substantial nature in his application, examination or appointment, the certification of such eligible may be revoked and his employment directed to be terminated. No such certification shall be revoked or appointment terminated more than three years after it is made, except in the case of fraud.
5. All appointments may be subject to a satisfactory medical and/or psychiatric examination. Applicants disqualified under this section will be afforded an opportunity to submit facts to the Commission in opposition thereto.

RULE XIII  
EXAMINATIONS

**1. Scoring of Examinations**

The final score of each candidate in a written or oral or other test or combination of tests comprising an examination shall be reported on a scale to 100, where the score of 100 shall represent the best performance possible, expected or attained, and where the score of 70 shall represent a performance meeting the minimum needs of the position to be filled with regard to number and quality of eligibles, and where the score of 60 - shall represent any score below 60.

In examinations or tests in which, considering the needs of the service or the difficulty of the examination or test or other substantial factors, a sufficient number of candidates of sufficient quality achieve raw scores or weighted or corrected raw scores, as defined under this section, or some combination of such scores equivalent to 70% or higher of the maximum possible score, final scores shall be determined from raw scores or weighted or corrected raw scores or some combination of such scores on a percent basis or by an arithmetic adjustment or a series of arithmetic adjustments or by a statistical adjustment, as defined under this section, or by any combination of such adjustments such that final scores at or about 70 will approximate percent scores, provided that no candidate is failed who would pass under percent scoring, that the relative order of scores is maintained, and that the scoring adjustment used is approved by the Secretary and Chief Examiner.

In examinations or tests in which, considering the needs of the service or the difficulty of the examination or test or other substantial factors, an insufficient number of candidates achieve raw scores or weighted or corrected raw scores, as defined under this section, or some combination of such scores equivalent to 70% or higher of the maximum possible score, final scores may be determined from raw scores or weighted or corrected raw scores or some combination of such scores by an arithmetic adjustment or a series of arithmetic adjustments or by a statistical adjustment, as defined under this section, or by any combination of such adjustments such that more candidates are passed than would pass if final scores at or about 70 approximated percent scores, provided that the relative order of scores is maintained, that the necessary quality of eligibles is not jeopardized, and that the scoring adjustment used is approved by the Secretary and Chief Examiner.

(a) Raw Score

A raw score is the number of questions answered correctly in a short answer written test or the combination of examiners' ratings in an oral or performance test or the number of credit points earned or assigned in any other kind of test, or some combination of the foregoing.

(b) Part Raw Score

A part raw score is the raw score from a part of a test or the raw score from a test that is part of an examination.

(c) Corrected Raw Score

A corrected raw score is a score that has been derived from a raw score from a short answer written test by one of the following methods:

Deductions for wrong answers, as distinguished from omissions, may be made from raw scores. For example, one point may be deducted from raw scores for every four wrong answers. In this case, for a 100-item test, a candidate who answered 60 questions correctly and 20 questions incorrectly and who omitted answering 20 questions would have a raw score of 60 and a corrected raw score of 55.

Additions for omissions may be made to raw scores. For example, one point may be added to raw scores for every five omissions. In this case, for a 100-item test, a candidate who answered 60 questions correctly and 20 questions incorrectly and who omitted answering 20 questions would have a raw score of 60 and a corrected raw score of 64.

These methods may be also applied to part raw scores, the results of which would then be combined with raw scores or weighted or corrected raw scores from the other parts of the test or other tests in the examination.

(d) Weighted Raw Score

A weighted raw score is a score that has been derived from a raw score by assigning a weight other than one to one or more of the part raw scores that contribute to the raw score. For example, in a short answer written test, a weight of two may be assigned to each correct answer to a group of questions comprising the most important part of the test and all other

correct answers may be assigned a weight of one each. In this case, a candidate correctly answering 7 questions with a weight of two each and correctly answering 69 questions with a weight of one each would get a weighted raw score of 83.

(e) Arithmetic Adjustments

An arithmetic adjustment is the adding to or subtracting from raw scores or weighted or corrected raw scores or some combination thereof or some fraction or multiple of such scores a uniform whole number or fraction or combination thereof.

For example, final scores may be determined by using an equation such as:

$$\text{Final Score} = 3R/2 + 2 \frac{1}{2}$$

Where R is the raw score or the weighted or corrected raw score or some combination of such scores. In this case, a raw score of 60 would become a final score of 92.5. In another case, final scores may be determined by using an equation such as:

$$\text{Final Score} = R/2 - 10$$

In this case a raw score of 180 would become a final score of 80.

A series of arithmetic adjustments consists of the division of the distribution of raw scores or weighted or corrected raw scores or some combination of such scores into two or more mutually exclusive ranges of scores and applying a separate arithmetic adjustment as defined above in each range. For example, a distribution of raw scores from a 120-item test may be split so that all raw scores in the range of 85 to 120 are converted to final scores by an equation such as:

$$\text{Final Score} = R/2 + 40$$

and raw scores in the range 1 - 84 are converted to final scores by an equation such as:

$$\text{Final Score} = R - 2$$

In this case a raw score of 78 would become a final score of 76 and a raw score of 100 would become a final score of 90. This would accomplish a lowering of the passing point below percent standards and at the same time would provide for more than 31 scores between 70 to 100.

f. Statistical Adjustment

A statistical adjustment is the assignment of final scores according to a predetermined form based on a statistical division of the distribution of raw scores or weighted or corrected raw scores or some combination of such scores.

Examples:

(a) The raw scores or weighted or corrected raw scores or some combination of such scores of all passing candidates may be evenly distributed between 70 and 100 with the best 1/6 of eligibles assigned final scores from 95 to 100, the next 1/6 assigned final scores from 90 to 95, the next 1/6 assigned final scores from 85 to 90, the next 1/6 assigned final scores from 80 to 85, the next 1/6 assigned final scores from 75 to 80, and the lowest 1/6 assigned final scores from 70 to 75.

(b) A final passing score of 70 may be assigned to candidates attaining a mean raw score or mean weighted or corrected raw score or a mean of some combination of such scores, and a final score of 80 may be assigned to candidates attaining one standard deviation higher, etc.

Any officer or employee to whom the identity and rating of one or more candidates in an examination is known shall be disqualified from recommending or approving the use of any scoring adjustment in such examination. In the event that the identity and rating of one or more candidates in an examination is known to an officer or employee whose duties and functions would otherwise involve the recommendation or approval of the use of a scoring adjustment in such examination, the duties and functions of such officer or employee with respect to the recommendations or approval of a scoring adjustment in such examination shall be assigned to another appropriate officer or employee who is not disqualified under the provisions of this section.

Where one of the above methods of scoring is used, the nature of the scoring adjustment shall be made known upon request to any candidate who inspects his examination paper or questions his rating.



2. Applicants must pass such physical examinations as the Commission may require and must be certified as qualified in such respects either before admission to the examination, or before placement on the proper eligible list, or before certification for appointment as the Commission may determine. A candidate having physical defects which may impair his ability to render efficient service, shall be rejected. In cases of applicants for appointment to or promotion to a position in a police force, the applicants must also pass the preappointment medical examination of the police department before appointment.

3. The Commission may further direct oral examinations or practical tests of fitness for any particular position requiring scientific, professional or technical knowledge or manual skill. A stenographic record of all questions and answers in the oral examination shall be made and preserved for a period of at least four years.

4. The Commission shall adopt a system to conceal the identity of the candidates' papers in a written examination until such written examination has been rated (10/2/91).

5. For examinations prepared and rated by the Commission, applications and examination records and papers of candidates shall be preserved until at least six months after the expiration of the eligible list resulting from such examination, but in no event may records be destroyed except in accordance with the policies of the State Commissioner of Education and the State Civil Service Commission. Whenever an oral test shall be prescribed as part of an examination, a stenographic or recording device record of all the questions and answers shall be made a part of the examination records.

6. (a) All approved candidates in an examination shall be notified of their final ratings and, if successful, of their relative positions on the eligible list established as a result of the examination. When two or more eligibles receive the same final rating or average in an examination, they shall be notified of such condition and the number of other eligibles attaining the same rating or average.

(b) For examinations prepared and rated by the Commission the following reviews may be made available, at the discretion of the Commission: Pre-rating, Computational, Post Rating. (10/2/91).

All reviews will be held in the presence of a designated representative of the Commission, provided the request for the review is made in writing within five working days of either a date announced at the time of the examination or the rating notification's post marked date. Candidates will be allowed a designated time period to be established by the Commission. The application and examination papers of a candidate shall be exhibited only to the candidate. (10/2/91).

(c) Notwithstanding the foregoing no reviews or appeals will be considered from examination held on a continuous recruitment basis where candidates are allowed to participate in more than one similar type examination within a twelve month period.

7. (a) A candidate who wishes to appeal to the Commission from his rating in one, or more, or all of the subjects of an examination in order to establish eligibility for placement or improve his relative standing on the eligible list must submit such appeal in writing at the review center on the date or dates on which his/her examination papers are made available for his/her inspection. Such appeal must show that a manifest error was made in the original rating. Such appeal shall be considered as opening all of the candidate's papers for review, whether resulting in a higher or lower average standing. No change in rating shall be made as a result of an appeal unless it shall affect the candidate's relative position on the 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 Commission may at any time during the life of an eligible list resulting from an examination prepared and rated by the Commission, correct any clerical, computational or manifest error 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.

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

RULE XIV  
EXCEPTIONS FROM COMPETITIVE EXAMINATION

1. The Commission may by special action except from examination under these Rules; (a) Any person who shall render professional, scientific, technical or other expert service of an occasional and exceptional character; (b) Any person who shall render services for which, because of their temporary and exceptional character, it would not be practicable to hold an examination of any kind. Such exceptions shall be allowed only in cases where the compensation in any one year shall not exceed \$1,000, provided that the Commission may suspend such limitation of compensation by special resolution.
  
2. In case of a vacancy in a position in the competitive class where peculiar and exceptional qualifications of a scientific, professional or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable, and that the position can be best filled by the selection of some designated person of high and recognized attainments, the Commission may suspend the provisions of the rule requiring competition in such case, but no such suspension shall be general in its application, and all such cases of suspension shall be reported to the State Commission in the annual report, with the reasons for the suspension.
  
3. Whenever a vacancy exists in a position in the competitive class, and an open competitive examination duly advertised does not result in an eligible list of at least three names for such position, the appointing officer may nominate a person to the Commission for non-competitive examination, and if such nominee is certified by the Commission as qualified after such examination, he may be appointed to fill such vacancy on a provisional basis.

RULE XV  
ELIGIBLE LISTS

1. Every candidate who attains a passing mark in an examination as a whole and who meets the standards prescribed, if any, for separate subjects or parts of subjects of the examination, shall be eligible for appointment to the position for which he was examined and his name shall be entered on the eligible list in the order of his final rating; but if two or more eligible receive the same final rating in the examination, they shall be ranked in accordance with such uniform, impartial procedure as may be prescribed therefor by the Commission.

A test which was planned as part of an examination may be waived and the eligible list established on the basis of scores in the other announced part or parts of the examination when the number of candidates successful in the preceding part or parts of the examination does not exceed by more than two the number of vacancies to be filled from such eligible list which exist at the time of the establishment of the eligible list.

2. The date of the establishment of a list shall be the date fixed therefor by Commission resolution, and shall be entered on such list. The term of eligibility of all lists shall be fixed by the Commission at not less than one nor more than four years.

3. The date of establishment of an eligible list and its duration shall be given to all successful candidates at the time when notice of standing on the eligible list is given to such candidates. Where the duration of an eligible list is fixed at less than four years, the Commission may, by resolution, prior to the expiration date of such list extend the duration of the list up to the maximum limitation of four years.

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

5. An eligible list may be established subject to the conduct of such medical, physical, or other appropriate non-competitive qualifying tests, investigations and conditions as may be deemed appropriate by the Commission.

6. An eligible list that has been in existence for one year or more shall terminate upon the establishment of a new list unless otherwise prescribed by the Commission. Where an eligible list is established by means of continuous recruitment, the names of the new eligibles shall be added to any existing list for such position in accordance with the rating achieved by the eligibles. Such names shall remain on the eligible list for one year from the date of notification of examination results, unless otherwise noted on the official examination announcement as greater than a year.

7. When an eligible list has been in existence for less than one year and contains the names of less than three eligibles willing to accept appointment, and a new list for the same position or group of positions is established, the names of the eligibles remaining on the old list shall have preference in certification over the new list until such old list is one year old and during such period such names shall be certified along with enough names from the new list to provide the appointing officer with a sufficient number of eligibles from which selection may be made. Where an old list which has been in existence for one year or more is continued upon the establishment of a new list which contains less than three names, the Commission may certify the names on the old list along with enough names from the new list to provide the appointing officer with a sufficient number of eligibles from which selection may be made.

8. The appointing body of a town, village, special district, school district or school district library may, by resolution, request the Commission to certify first for appointment from open competitive lists, residents of the particular town, village, special district, or school district provided, however, no such preference shall be given on appointments from the promotion lists. Upon exhaustion of the list of such resident eligibles, certification shall be made from the whole eligible list.

9. The Commission shall have power in its discretion to correct any error and amend any eligible list where it appears that an error has been made or an injustice done. The Commission shall have the power to revoke any eligible list where the provisions of these rules were not properly or sufficiently carried out; provided, however, that an eligible list shall not be revoked except after notice and an opportunity to be heard has been given to all persons whose names appear thereon. The reasons for such action shall be recorded in the minutes of the Commission and reported to the State Civil Service Commission

RULE XVI  
CERTIFICATIONS AND APPOINTMENTS

1. The Commission shall determine the eligible list most nearly appropriate for the position to be filled, and shall certify to the appointing authority a sufficient number of eligibles from which selection for appointment may be made. When the name of an 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. The application of an eligible who is being considered for appointment may be shown to the appointing officer; provided, however, that all reference therein to the candidate's national origin or the basis of citizenship shall be concealed; in addition to providing that it does not violate the laws against discrimination.
2. A certification issued by the Commission 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. When an eligible is canvassed for appointment or is offered appointment in writing and fails to state his willingness to accept such appointment within seven working days after the mailing of such canvass or offer, or before the end of the next succeeding working day if such canvass or offer is sent to him by telegram, he may be considered ineligible for purposes of making selection for such particular appointment.
4. When an eligible from a list is canvassed in writing for an appointment and is reported to the Nassau County Civil Service Commission as failing to respond to such canvass in writing within seven working days after the mailing of such canvass, upon the accumulation of more than two no-responses, his/her name will be removed from the eligible list.
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. The Commission shall enter upon the eligible list the reasons for its 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 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 as provided in Rule XV.
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 Commission one of the applicants who may be certified for appointment to fill the vacancy without further examination, provided that he has already qualified in an examination of equivalent character within the last four years from the date of nomination.
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 appointment beyond that offered to the persons so declining.

RULE XVII  
TRAINEE APPOINTMENTS

The Commission may require that permanent appointments to designated positions in the competitive and non-competitive classes shall be conditioned upon the satisfactory completion of a period of service as a trainee in an appropriate lower, trainee position in such class and where required, the completion of specified formal courses of training. The period of such trainee service shall be prescribed and set forth in the specifications of the non-competitive class titles and in the specification and announcement of examination for competitive class titles and shall be not less than one year and not more than two years from date of appointment from an appropriate eligible list for competitive class titles and from the date of original appointment in the appropriate trainee title for non-competitive class titles. Upon the satisfactory completion of such trainee service and of specified formal courses of training, where required, an appointee shall attain permanent status in the designated position with the exception of Librarian Trainee in which permanent status in another position shall not be attained.

Any trainee or intern appointment hereunder shall be subject to such probationary term as is prescribed in these rules. Moreover, the employment of such trainee or intern may be terminated at any time between the eighth week and the end of the period of his trainee or intern service, if his conduct, capacity or fitness is not satisfactory, or at any time after appointment if he fails to pursue or to continue satisfactorily such formal courses as may be required, upon written notice to the trainee or intern with a copy to the Nassau County Civil Service Commission at least one week before the effective date of such termination.

RULE XVIII  
PROMOTIONS

- 1.** In no case shall any person be eligible for permanent promotion until he has served at least six months on a permanent basis in a lower grade position; except for Field Auditor Intern (Comptroller's Office) after appointment to the position of Field Auditor I, as set forth in Rule XIX (1) and the specification for this position.
- 2.** Any person who is nominated for non-competitive examination for promotion to a position and who fails to pass three 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.** In filling vacancies by promotion, the procedures and conditions set forth in Section 52, Civil Service Law must be followed.

In accordance with Section 52 (12) of the Civil Service Law, an employee who is holding and has held a position in the non-competitive class on a continuous basis for a period of two years may be eligible to take a promotional examination for a competitive, entrance-level position, as defined and designated by the Nassau County Civil Service Commission.

RULE XIX  
TERM OF PROBATION

1. Probationary Term

(a) In addition to the tests required in physical, medical, and written examinations for positions in the competitive class of the Classified Service and as a further test of the fitness and ability of a person appointed to such service, and to positions in the non-competitive and labor class of the Classified Service, every permanent appointment from an open competitive list and every original appointment to a position in the non-competitive or labor class shall be for a specific probationary term of not less than eight nor more than twenty-six weeks except as herein otherwise provided. The appointing authority shall report the appointment to the Civil Service Commission and indicate the specific term of the probationary period on a form to be provided by the Commission. A copy of such report shall be furnished by the appointing authority to the employee at the time of such appointment.

No probationary term shall be required for appointments to positions in the non-competitive class, or labor class, which have been designated as training positions, or confidential, or requiring the performance of functions influencing policy, as noted in the appendices to these rules as exceptions to the County Government Law, Section 1305-a, as amended by Local Law No. 4-1968, nor for appointments to positions similarly designated by agreement between a municipality and a duly recognized bargaining unit, unless the appointee is a veteran or exempt volunteer fireman, who may, after completion of a specific probationary term, be afforded the protection of Section 75.1 of the Civil Service Law.

(b) An appointment shall automatically become permanent upon the satisfactory completion of the period of probation as set forth in the report of the appointment to the Civil Service Commission.

An appointment shall become permanent upon earlier written notice, following completion of a minimum period of service, that the probationary term has been successfully completed.

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 eight-week period of service, or on or before completion of the maximum period of service, in the manner prescribed in these rules.

If the conduct or performance of the probationer is not satisfactory, his employment may be terminated at the end of the probationary period as set forth in the report of the appointment to the Civil Service Commission.

(c) Trainee and Intern positions – The probationary term for a trainee or an intern appointment, shall coincide with the term of training service set forth in the specification and announcement of examination for competitive class titles and in the specification for the position for non-competitive class titles and shall be subject to the provisions of Rule XVII, of these Rules, unless excepted by a duly recognized agreement.

(d) Field Auditor I – Notwithstanding the provisions of Section 1 (a) of this Rule, every permanent appointment for the position of Field Auditor I from an open-competitive list shall be for a probationary term of one year after appointment from an appropriate eligible list. The probationer's employment may be terminated at any time after the completion of a minimum eight-week period of service.

(e) Police Officer – Notwithstanding the provisions of Section 1 (a) of this Rule, every permanent appointment for the position of Police Officer from an open-competitive list shall be for a specific probationary term of not less than twelve nor more than seventy-eight weeks.

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

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 or on or before completion of the maximum period of service in the manner as prescribed in these rules.

(f) Deputy Sheriff I, Correction Officer – Notwithstanding the provisions of Section 1 (a) of this Rule, every permanent appointment for the position of Deputy Sheriff I, Correction Officer, from an open-competitive list shall be for a specific probationary term of not less than twenty-six nor more than fifty-two weeks.

(g) Notwithstanding any other provisions of these Rules, the appointment or promotion of a police officer shall not become permanent unless and until such requirements as may be applicable under section two hundred nine-q of the general municipal law have been satisfied. A police officer who is promoted to a higher rank after meeting all requirements of eligibility for permanent promotion except training requirements applicable under section two hundred nine-q of the general municipal law, shall be deemed to be on leave of absence from the lower rank position 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 failure to complete such training successfully within the time allowed therefore, the police officer shall be restored to such lower rank position.

(h) Police Communications Operator – Notwithstanding the provisions of Section 1 (a) of this Rule, every permanent appointment for the position of Police Communications Operator from an open-competitive list shall be for a specific probationary term of not less than eight nor more than fifty-two weeks.

(i) Campus Peace Officer I - Notwithstanding the provisions of Section 1(a) of this Rule, every permanent appointment for the position of Campus Peace officer I from an open-competitive list shall be for a specific probationary term of not less than eight nor more than fifty-two weeks.

(j) Caseworker I; Caseworker I, Bilingual – Notwithstanding the provisions of Section 1(a) of this Rule, every permanent appointment for the position of Caseworker I and Caseworker I, Bilingual from an open-competitive list shall be for a probation term of not less than eight weeks nor more than fifty-two weeks, after appointment from an eligible list,

(k) Social Welfare Examiner I; Social Welfare Examiner I, Bilingual – Notwithstanding the provisions of Section 1(a) of this Rule, every permanent appointment for the position of Social Welfare Examiner I and Social Welfare Examiner I, Bilingual from an open-competitive list shall be for a probationary term of not less than eight weeks nor more than fifty-two weeks, after appointment from an appropriate eligible list.

## 2. Absence During Probationary Term

(a) Any periods of authorized or unauthorized absence aggregating up to ten workdays during the probationary term, may, in the discretion of the appointing authority, be counted as time served in the probationary term. Any such periods of absence in excess of an aggregate of ten workdays shall not be counted as time served in the probationary term. The probationary term of an employee shall be extended by the number of workdays of his/her absence, which pursuant to this section, are not considered as time served in the probationary term.

(b) For Police Officer, any periods of authorized or unauthorized absence aggregating up to fifteen workdays during the probationary term, may, in the discretion of the appointing authority, be counted as time served in the probationary term. Any such period of absence in excess of an aggregate of fifteen workdays shall not be counted as time served in the probationary term. The probationary term of an employee shall be extended by the number of workdays of his/her absence, which, pursuant to this section, are not considered as time served in the probationary term.

(c) Any person who has been granted a leave of absence without pay during his probationary term shall be required to complete such probationary term after his reinstatement except as otherwise provided by the Military Law.

(d) Any employee who, during his/her probationary term or after such probationary term has been completed, is absent from his/her position without official leave for a period of ten working days or more, and has been discharged from his/her position as a result of appropriate disciplinary procedure, may, upon application to the appointing officer, and upon presentation of a satisfactory excuse for the absence, and subject to the approval of the Commission, be reinstated and restored to active duty. When any such probationer is reinstated by the appointing officer, the probationary term shall be extended by a period equal to the number of days absent without leave.

## 3. Temporary or Provisional Service in Higher Level Position

When an employee who has not completed his probationary term is appointed on a temporary or provisional basis to a higher level position, the period of temporary or provisional service rendered by such employee in such higher level position in a related job family 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 probationary term, 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 this 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 for the entire probationary term.

#### 4. Promotions, Interdepartmental Promotions and Transfers

(a) Every permanent appointment from a departmental promotion list shall be for a probationary term of sixty days; provided, however, that upon promotion the appointing officer, by written notification to the Commission, may waive the requirement of satisfactory completion of such probationary term.

(b) Every interdepartmental promotion or transfer from a position in one department or agency to a position in another department or agency shall be for a probationary term of sixty days; provided, however, that upon interdepartmental promotion or transfer the appointing officer, by written notification to the Commission, may waive the requirement of satisfactory completion of such probationary term.

(c) When a person is promoted or transferred from a position in one department or agency to a position in another department or agency, the position formerly held by the person so promoted or transferred shall be held open for him and shall not be filled, except on a temporary basis, pending completion of his probationary term which shall not exceed sixty days. At any time during such probationary term the employee shall have the right to return to his previous position at his own election. If the conduct or performance of the probationer is not satisfactory, he shall be restored to his former permanent position at the end of his probationary term.

#### 5. 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, provided, however, that upon written notification to the Commission an appointing officer may waive the requirement of satisfactory completion of such probationary term.

#### 6. Report on Probationer's Service

The probationer's supervisor shall carefully observe his conduct and performance and, from time to time during the probationary term may advise the probationer of his progress. The appointing authority at least two weeks prior to the end of the probationary term shall advise the Civil Service Commission, on forms provided by the Commission, whether the probationer's conduct, capacity and fitness are satisfactory and that he will be retained as a permanent employee, or whether his conduct, capacity and fitness are unsatisfactory and that he is to be discharged. A probationer whose services are to be terminated for unsatisfactory service shall receive written notice at least one week prior to such termination, and a copy of this notice shall be sent to the Civil Service Commission.

#### 7. Restoration to Eligible List

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

#### 8. Removal During Probationary Term

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

RULE XX  
SEASONAL APPOINTMENTS

1. Appointment to Seasonal Positions in Competitive Class

(a) Positions in the competitive class where the nature of service is such that it is not continuous throughout the year, but recurs in each successive year, except as herein otherwise provided, shall be designated as seasonal positions and shall be subject to the provisions of these rules applicable generally to positions in such class.

(b) Upon the expiration of the employment season, the names of all persons employed in such seasonal positions shall be entered upon a seasonal re-employment list in the order of their first appointment to the title vacated by them at the expiration of such employment season. Such seasonal re-employment list shall be certified to the appointing authority at the commencement of or during the next employment season, and the persons whose names appear thereon as still qualified shall be entitled to re-employment in such positions in the order in which their names appear on such list. Any such person may be re-examined by the Commission with respect to his physical fitness for the performance of the duties of the position, and further 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.

The name of any person on such list who is not reached for re-employment shall remain on such list and shall be certified in the order of the date of his first appointment to such position during subsequent employment seasons; provided, however, that the eligibility for re-employment of any such person shall not continue for a period longer than three years from the date of his separation from such seasonal employment. A seasonal re-employment list shall not be deemed to be a preferred list as provided for in Section 81 of the Civil Service Law.

## **RULE XXI**

### **EFFECT OF TEMPORARY OR PROVISIONAL APPOINTMENT ON STATUS OF APPOINTEE**

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

The acceptance by an eligible of a temporary appointment shall not affect his standing on the eligible list for a permanent appointment, nor shall the period of a temporary service be counted as part of the probationary service in the event of subsequent permanent appointment.

#### **2. Provisional and/or provisional promotion appointment of permanent employee**

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

#### **3. Successive provisional appointments and/or provisional promotions.**

(a) A provisionally appointed or provisionally promoted employee who does not participate in the examination for permanent appointment shall not be given another provisional appointment or provisional promotion in the same position. Under unusual circumstances the Commission may extend a provisional appointment or provisional promotion to the next examination.

A provisionally appointed employee or provisionally promoted employee who has three times failed the examination for permanent appointment shall not be given another provisional appointment or provisional promotion in the same position.

## RULE XXII

### TRANSFERS

#### 1. General conditions and limitations.

In addition to the conditions and limitations prescribed by a statute or in other provisions of these Rules, transfers shall be subject to the following requirements:

(a) A transfer may be allowed only if there is no agency or departmental promotion list for the position to which appointment is sought containing the names of three or more eligibles willing to accept appointment. (2000)

(b) A transfer may not be made to a position for which a preferred list containing the name of an eligible willing to accept reinstatement to such position exists. (1962)

(c) A transfer may be made: (1) if the Commission determines that the examinations' scopes and qualifications for the positions held and to which appointment is sought are identical; or (2) when the examinations' scopes and qualifications are not identical, 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. (2000)

(d) Every transfer shall require the consent, in writing, of the transferee and of the respective appointing authorities having jurisdiction over the positions to which and from which transfer is sought, and the approval of the Civil Service Commission. (1962)

(e) Every transfer from a position in one department or agency to a position in another department or agency shall be subject to a term of probation in accordance with the provisions of Rule XIX, Section 4, (b) and (c). (2/14/79)

(f) Every transfer from a position in one civil division to a position in another civil division shall be for a probationary term of sixty days; provided, however, that upon such transfer the appointing officer, by written notification to the Commission, may waive the requirement of satisfactory completion of such probationary term. (11/3/71)

(g) When a person is transferred from a position in one civil division to a position in another civil division, the position formerly held by the person so transferred shall be held open for him and shall not be filled, except on a temporary basis, pending completion of his probationary term which shall not exceed sixty days. At any time during such probationary term the employee may notify the appointing officers of his election to return to his previous position at the end of the probationary term or with the consent of the appointing officers at an earlier date. If the conduct or performance of the probationer is not satisfactory, he shall be restored to his former permanent position at the end of his probationary term. (11/3/71)

#### 2. Transfers between positions in different civil divisions under the jurisdiction of the Commission.

(a) A transfer may be allowed from a position in one civil division to a position in another civil division under the jurisdiction of the Commission, provided the prospective transferee meets applicable residence requirements, if any, for the position to which transfer is sought, and provided such prospective transferee at any time would have been eligible and reachable for appointment to the position to which transfer is sought from the current eligible list from which the original permanent appointment was made.

(b) Upon the expiration of the eligible list from which the original permanent appointment was made, a transfer may be allowed from a position in one civil division to a position in another civil division under the jurisdiction of the Commission, provided the prospective transferee meets applicable residence requirements, if any, for the position to which transfer is sought. (2000)

#### 3. Transfers between State and local positions.

(a) A transfer may be made from a position in the State service to a position subject to these Rules, provided the prospective transferee meets the residence requirements, if any, applicable to the position to which transfer is sought.

(b) A transfer may be made from a position subject to these Rules to a position in the service of the State, provided the prospective transferee was, at or subsequent to the time of original appointment in an agency subject to these Rules, eligible for certification and appointment to the position in the State service to which transfer is sought.

(c) A transfer pursuant to this section shall require the approval of the State Civil Service Department and the municipal civil service commission having jurisdiction over the local position to or from which transfer is made.

#### 4. Transfers pursuant to reciprocal rules.

(a) This section shall apply to transfers between positions subject to these Rules and positions in a civil division under the jurisdiction of the State Civil Service Department or under the jurisdiction of a municipal commission which had adopted a reciprocal rule permitting transfers of employees to and from other governmental jurisdictions.

(b) A transfer may be made pursuant to this section, provided that:

(1) The prospective transferee holds a position to which he was appointed from an eligible list resulting from an examination prepared and rated by the State Civil Service Department;

(2) Such examination is or would be appropriate for filling the position to which transfer is sought;

(3) Such person meets applicable residence requirements, if any, for the position to which transfer is sought; and

(4) Such person at any time would have been eligible and reachable for appointment to the position to which transfer is sought from an eligible list resulting from an examination having the same or less restrictive residence requirements than those applicable at the time of transfer to the position to which transfer is sought.

(c) Any person holding a permanent appointment in a competitive class position in the service of a civil division may be transferred to a similar position in another civil division having the qualifications and examination requirements similar to or lower than the position then held by such person provided that a competitive examination for the latter position in which such person was eligible to compete has failed to produce sufficient eligibles to fill vacancies in the civil division to which transfer is sought.

Any transfer pursuant to this reciprocal rule shall require approval of the respective municipal commissions having jurisdiction over the positions from which and to which transfer is sought.

## RULE XXIII

### REINSTATEMENT

1. A permanent employee who has resigned from his/her position, may, subject to Civil Service Commission approval, be reinstated without further examination to the position from which he/she resigned, if vacant, or in any vacant position to which the employee was eligible for transfer or reassignment. An employee who has been laid off shall be eligible for reinstatement in the same manner as an employee who has resigned.

(a) All reinstatements are subject to the following terms and conditions:

(1) Reinstatement may not be approved to a position for which a preferred list exists containing the name of an eligible candidate willing to accept appointment.

(2) With the exception of an employee who is being reinstated to his/her former position within one year of resignation, reinstatement may not be approved to a position for which a promotion eligible list exists containing the names of three or more eligible candidates willing to accept appointment.

(b) Reinstatement following a break in service of more than one year may be subject to any of the following additional conditions. In computing the one-year period, any time spent in active service in the military or naval forces of the United States or of the State of New York, and any time served in another position in the civil service of the same municipality shall not be considered. Also, in cases where the employee being reinstated was on leave of absence prior to his/her resignation, such resignation shall be deemed effective as of the date of the commencement of the leave.

(1) The appointing authority must be required to provide documentation or explanation that demonstrates to the satisfaction of the Commission that the individual requested to be reinstated possess current knowledge and skill in the occupational field to which reinstatement is sought.

(2) If the position to which reinstatement is sought requires successful completion of medical, psychological and/or physical agility tests for original appointment, the individual being reinstated may be required to satisfy these criteria immediately prior to reinstatement.

(3) If the position to which reinstatement is sought requires fingerprinting and/or successful completion of a background investigation prior to original appointment, the individual being reinstated may be required to satisfy these criteria immediately prior to reinstatement.

2. Probationary term after 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, provided, however, that upon written notification to the Commission an appointing officer may waive the requirement of satisfactory completion of such probationary term.

3. 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 Commission 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 reasons of his failure or refusal to accept reinstatement to a position in a lower salary grade than the position from which he was suspended or demoted. The name of such person may be withheld from further certification for reinstatement to a position in the same or a lower salary grade than the position to which he failed or refused to accept reinstatement.

(c) Restoration to eligibility for reinstatement not to affect previous appointments.

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

## RULE XXIV

### LEAVE OF ABSENCE

1. Leave of absence without pay, not to exceed one year, may be granted to a permanent employee in the competitive, non-competitive or labor class of the classified service by an appointing officer. Notice of such leave of absence shall be given to the Commission. A further leave of absence not to exceed one year may be granted as provided in subdivision 2 of this rule.

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, except as provided in subdivision 2, 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 Commission.

Failure of an employee to return to his position on the date of the expiration of the leave of absence shall be deemed a resignation from the service upon the date such leave of absence commenced. Absent an employee's written resignation, a Section 75 hearing or other negotiated disciplinary proceeding must be held, in absentia, if necessary, whenever a tenured employee is to be terminated for failure to return from leave.

Employees who are terminated under Section 73 of Civil Service Law for failing to return from a leave of absence occasioned by ordinary disability or, under Section 71, following exhaustion or termination of Workers' Compensation leave, must be afforded an opportunity for a hearing to contest the decision before such termination is to take effect. (09/26/00)

2. Except as permitted by subdivision 4 of this rule the Commission may for good cause shown, waive the provisions of this rule to permit an extension of the leave of absence for an additional one-year period. In no case may such leave of absence exceed in aggregate two years from the date of commencement of the leave except as permitted by subdivision 4 of this rule.

3. A leave of absence without pay, not to exceed four years, shall be granted by an appointing officer to an employee who is a veteran of the Armed Forces of the United States, providing such a leave of absence is for the purpose of taking courses under 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.

4. A permanent competitive, non-competitive or labor class employee may be granted a leave of absence to serve in an exempt or non-competitive class position. Such leave of absence shall expire at the end of his employment in such exempt or non-competitive class position provided that such service shall not continue more than two (2) years. The Commission, in its discretion, may waive the time limitation in cases where it finds such a waiver to be in the public interest.



## **RULE XXV**

### **RESIGNATION**

#### **1. Resignation in writing.**

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

#### **2. Effective date.**

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

#### **3. Withdrawal or amendment**

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

#### **4. Voluntary Demotion.**

An employee who voluntarily elects to relinquish his permanent 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, at the discretion of the Civil Service Commission, be reinstated to any vacant lower 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 XXVI

## LAYOFF AND DISCIPLINARY ACTIONS

### I. Layoff of Competitive Class Employees

#### 1. For the Purpose of this Rule the following terms shall mean:

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

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

(c) Layoff unit shall mean each department of a County, each department of a Town, each department of a Village; each School District, each School District Library, each Special District, each Authority and the Community College.

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

(i) Dismissal from the service, or

(ii) Suspension without pay for a period exceeding one month, or

(iii) Demotion in grade and title.

(e)(i) Permanent Service, for the purpose of this rule, shall start on the date of the incumbent's original appointment on a permanent basis in the classified service. However, in the case of disabled veterans, the date of original permanent appointment is considered to be 60 months earlier than the actual date; while non-disabled veterans are considered to have been appointed 30 months earlier than their actual date of appointment. For the purposes of this rule the definition of what constitutes a veteran or disabled veteran is contained in Section 85 of the Civil Service Law.

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

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

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

(v) If an employee was covered-in to a classified position upon acquisition by a civil division of an agency in which he was employed, his seniority begins on the effective date of the cover-in. As between that employee and others covered-in on the same date, they shall have the seniority held by them as among themselves in the agency before the cover-in.

#### 2. Suspension

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

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

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

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

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

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

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

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

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

### 3. Vertical bumping

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

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

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

(d) When a next lower title has been occupied by means of displacement regardless of when the displacement into the title has occurred, it is considered to be occupied for further displacement purposes; however, a next lower title which has all of its positions abolished at the same time as positions are abolished at the higher level cannot be considered as occupied. A title which is occupied by an incumbent, temporary, provisional, contingent permanent, probationary or permanent is considered occupied for the purpose 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 retreats by displacing the incumbent with the least retention right who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in the title from which he is currently suspended or displaced. Retreat may only occur where the position in the title formerly held by the displacing incumbent is occupied in the competitive class, in the same layoff unit, and at a lower salary grade; the service of the displacing incumbent while in the former title must have been satisfactory, and the junior incumbent must have less retention standing than the displacing incumbent.

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

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

(e) Where a title change has been effected to better describe the duties of a position but the duties have not substantially changed since the suspended employee last served in that title the new title will for retreat purposes be deemed to 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 deemed 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 refusal or willingness to accept reassignment or displacement.

8. When a department or agency anticipates that positions in the competitive class are to be abolished, notice of such plans must be forwarded in detail to the Civil Service Commission at least two weeks before abolition of such positions.

## II. Removal and other disciplinary action.

An appointing officer may take appropriate disciplinary action with respect to employee for incompetency or misconduct under and pursuant to the procedure established in Section 75 of the Civil Service Law.

## RULE XXVII

### REPORTS OF APPOINTING OFFICERS

Signature on payroll certifications.

1. Payrolls shall not be certified except upon declaration by the County Department, Town, Village, Special District, School District or Library submitting them to the Commission, that the persons named therein are employed in their respective positions in accordance with the law and the rules and regulations adopted pursuant thereto. The Commission shall not certify the name of any person on the payroll, whose employment is in contravention of the foregoing provisions. The Commission shall require, on each payroll certification, the signature of the head of such County Department, Town, Village, Special District, School District or Library, who is the appointing officer in charge of authorizing payment to those employees appearing on the payroll. This responsibility cannot be delegated without the express written approval of the Commission.

2. For the purpose of certification of payrolls and to enable the Commission to keep up an official roster as required by law, each appointing officer, upon or prior to the date of the official action in each case, shall report to the Commission as follows:

- (a) Every appointment or employment, including the home address of the employee, whether probationary, temporary or otherwise with the date of commencement of service and the title and compensation of the position and every termination of employment and resignation.
- (b) Every failure to accept an appointment under him by a person eligible therefore and the date thereof with copies of the offer or notice of appointment and reply thereto.
- (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 salaries and date 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 with the proposed title and a complete statement of duties thereof.
- (l) Every change in personal record of an employee, including name and home address.

3. Payrolls shall not be certified except upon declaration by the department submitting them to the Commission that the persons named therein are employed in their respective positions in accordance with law and the rules and regulations adopted pursuant thereto. The Commission shall not certify the name of any person on the payroll, whose employment is in contravention of the foregoing provisions.

## **RULE XXVIII**

### **CERTIFICATIONS OF PAYROLLS**

#### **1. Signature on payroll certifications.**

Payrolls shall not be certified except upon declaration by the department submitting them to the Commission that the persons named therein are employed in their respective positions in accordance with the law and the rules and regulations adopted pursuant thereto. The Commission shall not certify the name of any person on the payroll, whose employment is in contravention of the foregoing provisions. The Commission shall require, on each certification from an agency, the signature of the Department Head or Head of Municipal Agency. This responsibility cannot be delegated without the express written approval of the Commission.

#### **2. Extended certifications.**

The Commission may certify the employment of a person for a limited or extended period. No further certification shall be necessary for payment of salary or compensation to such person, so long as his/her salary grade shall remain unchanged during such stated period. Except in the case of school districts, the Commission shall certify the first full payment for fiscal services in each fiscal year. School district certifications shall be made according to a schedule adopted by this Commission. Nothing herein shall be construed to prevent or preclude the Commission from requiring additional certifications or from terminating or rescinding a certification at any time by giving notice thereof to the appropriate fiscal or disbursing officer.

#### **3. Refusal or termination of certification.**

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

# **RULE XXIX**

## **CLASSIFICATION PLAN**

### **1. Definitions. For the purpose of these rules the following definitions shall apply:**

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

“CLASS TITLE” means the designation given under these rules to a class and to each position allocated to such class.

“CLASS SPECIFICATION” means a formal written statement of the class which defines the general character and scope of the duties and responsibilities of position in the class, lists typical or illustrative examples of work of positions in the class, enumerates the knowledge, skills, and abilities required for successful performance of the work and states required minimum experience and training for positions in the class.

“ALLOCATION” means the assignment of a position to an appropriate class as determined by the duties, responsibilities, and minimum qualification requirements of the position.

“RECLASSIFICATION” means the re-allocation of a position from one class to another because of a permanent and material change in the duties of that position.

**2. The Commission shall prepare and maintain a list of class titles and class specifications for all positions in the competitive, non-competitive and labor classes of the civil divisions within its jurisdiction and shall allocate all such positions to an appropriate class.**

### **3. Classification of Vacant Positions.**

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

### **4. Classification of New Positions.**

The appointing officer shall file a prescribed form with the Commission when a new position is to be created. Such form shall contain a detailed description of the duties and responsibilities of the position to be filled and a statement of suggested minimum entrance qualifications for the position. After an analysis of the position description, the Commission shall fix the appropriate civil service title and 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.**

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

(b) Any appointing officer may make application for the classification or reclassification of any position in his department, or any employee in the classified service may apply for a reclassification of his position. Such application must set forth reasons in support of the requested reclassification, including changes in the duties and responsibilities of the position since the last determination with respect to its classification, if any.

The Commission on its own motion based upon a review of a position or positions in the classified service may change any title of a position or the classification of the position, so as to conform to the established plan for the classification of positions.





## **RULE XXX**

### **PROHIBITION AGAINST QUESTIONS ELICITING INFORMATION CONCERNING POLITICAL AFFILIATIONS**

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

## RULE XXXI

### TEMPORARY OR PROVISIONAL APPOINTMENT OR PROMOTION OF PERMANENT EMPLOYEE

1. When a permanent competitive class employee is given a temporary or provisional appointment or promotion to another competitive class position in the same department or agency, or is promoted on a temporary basis to a higher grade position in another department or agency in which he will be eligible, after six months service, for contingent permanent status as provided in Sub. 2 of this rule, he shall be deemed to be on leave of absence from his permanent position for the period of his service under such temporary or provisional appointment. He shall be entitled to return to his permanent position upon the termination of such temporary or provisional service. An employee who voluntarily elects to relinquish his temporary or provisional employment and return to his permanent position shall give reasonable notice thereof to the appointing officer having jurisdiction over his permanent position.

#### 2. Contingent permanent status.

(a) When a permanent employee is appointed in the same department or agency, or promoted in the same or another department or agency, to a position in a higher grade which is left temporarily vacant by the leave of absence of the permanent incumbent, and such employee has qualified and at the time is eligible and reachable for permanent appointment or promotion to such higher grade position, he shall acquire contingent permanent status in such higher grade position upon completion of six months' service therein under such appointment or promotion, provided: (a) such appointment or promotion was made from an eligible list containing the names of at least three persons willing to accept such appointment or promotion or (b) the appointing officer, following completion of such six months' period, files with the Civil Service Commission written notice designating such employee as holding such position on a contingent permanent basis.

(b) An employee holding a position on a contingent permanent basis shall have the rights and be subject to the conditions enumerated herein, as follows:

(1) Unless separated from service, he shall be deemed to be on leave of absence from his lower grade position until he either returns to such lower grade position or gains full permanent status in his higher grade position. He may, at his election and after reasonable notice, be restored to his lower grade position at any time during such leave of absence, and shall be restored to such position upon the return of the permanent incumbent to the higher grade position.

(2) His contingent permanent status shall not adversely affect or impair his eligibility for permanent appointment or promotion to such vacancies as may occur in other similar positions.

(3) He shall be deemed to hold his position on a permanent basis for the purposes of Section 75 of the Civil Service Law (Removal and other disciplinary action), but shall be deemed to hold his position only on a temporary basis for purposes of Section 80 of such Law (Suspension or demotion upon the abolition or reduction of position).

(4) For purposes of salary rights and benefits, he shall be deemed to hold his position on a permanent basis.

(5) For purposes of subsequent examinations, either open competitive or promotion, his service in the higher grade position after acquiring contingent permanent status therein shall be counted in the same manner as though it were service on a permanent basis.

(6) If he returns to his lower grade position, he shall, at the discretion of the appointing officer, be eligible thereafter for permanent reinstatement to the higher grade position in which he served or any similar position, in the same manner as though he had held such position on a permanent basis and had been reinstated voluntarily to his lower grade position.

In the event that the permanent incumbent on leave from the higher grade position ceases to encumber such position, the contingent permanent promotee shall acquire full permanent status in such position as of the date that such encumbrance ceases.

## **RULE XXXII**

### COMPENSATION PLAN FOR THE COUNTY SERVICE

The compensation of all officers and employees of the County shall be as provided by the County Government Law of Nassau County or by ordinance of the Board of Supervisors.

## **RULE XXXIII**

### **GRADED SALARY PLAN**

Unless the legislative body of the municipality shall have adopted a graded salary plan indicating minimum and maximum salaries for each grade and indicating allocation of all titles to such grades, then for the purposes of promotion, demotion, transfer and reinstatement, all positions in the competitive class shall be graded as follows:

Grade 1. All positions, the compensation of which is at the rate of not more than \$4,500 per annum.

Grade 2. All positions, the compensation of which is at the rate of more than \$4,500, but not more than \$5,500 per annum.

Grade 3. All positions, the compensation of which is at the rate of more than \$5,500, but not more than \$6,500 per annum.

Grade 4. All positions, the compensation of which is at the rate of more than \$6,500, but not more than \$7,500 per annum.

Grade 5. All positions, the compensation of which is at the rate of more than \$7,500, but not more than \$8,500 per annum.

Grade 6. All positions, the compensation of which is at the rate of more than \$8,500 per annum.

## **RULE XXXIV**

### AMENDMENTS

These Rules may be amended and such amendments shall be valid and take effect after a public hearing, notice of which has been published for not less than three days, and upon approval of the State Civil Service Commission. Such Rules shall have the force and effect of law when filed with the Secretary of State.

## **RULE XXXV**

### ADOPTION OF RULES

THESE RULES ARE EFFECTIVE IN ACORDANCE WITH CIVIL SERVICE LAW.