



CIVIL SERVICE REFERENCE MANUAL

Your Civil Service Obligations:

**Appointments of Employees
Classification of Positions
RPCs (Report of Personnel Changes)
Payroll Certifications**

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CLASSES OF JOBS IN THE CIVIL SERVICE

Civil Service jobs fall into two broad categories:
Unclassified Service & Classified Service

The Unclassified Service

The Unclassified Service, per Civil Service Law §35, consists mainly of elective positions, heads of government agencies, officers and employees of legislative bodies (whose principal duties are directly related to legislative functions), and teachers and other educational positions that are certified by the NYS Education Department.

The Classified Service

All other public employment in New York State (other than military employment) falls within the Classified Service, which is organized into four classes:

1. **Competitive**
2. **Non-Competitive**
3. **Labor**
4. **Exempt**

APPOINTMENTS TO CIVIL SERVICE POSITIONS

- ★ **Competitive Class** ~ per Article 5, §6 of the New York State Constitution, all jobs in the Classified Civil Service are considered to be in the competitive class unless it has been determined that competitive examination is not practicable, and that determination has been approved by the New York State Civil Service Commission. **For appointment, the employee must take and pass an examination** and be reachable for appointment (one of the top three candidates willing to accept). The employee is then appointed from a certified eligible list of candidates resulting from the examination in the appropriate title.
- ★ **Non-Competitive Class** ~ these are jobs which have been approved by the New York State Civil Service Commission as positions for which competitive examination is determined to be not practicable. **For appointment, the employee must meet minimum qualifications** but does not have to take an exam or be appointed from a list.
- ★ **Labor Class** ~ these are jobs which mainly involve manual labor and have no minimum qualification requirements. **For appointment, the appointing authority may appoint anyone they choose.**
- ★ **Exempt Class** ~ these are primarily jobs which involve providing support for, or acting for and in the place of, an elected official, and have been approved by the New York State Civil Service Commission to be placed in the exempt class. Per Civil Service Law §41, elected officials and municipal boards may appoint an exempt-class clerk; principal executive officers may appoint a deputy to act for them; other subordinate offices may be placed in the exempt class when authorized by New York State law. **For appointment, the appointing authority may appoint anyone they choose.**

EXPLANATION OF APPOINTMENTS

COMPETITIVE CLASS APPOINTMENTS

According to Civil Service Law, an appointment can only be made to one of the top three candidates (on the appropriate certified eligible list) willing to accept. When an appointing authority requests a certified eligible list, two copies of the list are sent. One copy should record interview and appointment results and the other is for the appointing authority's files. There are instructions about how to use the certified eligible list on the back of the certification.

Record results of interviews, declinations, and offers next to each candidate's name on the list. To grant an appointment, enter the required information (appointment type, date of appointment, salary) to the right of the candidate's name on a copy of the certified eligible list. Attach written declinations and any other information pertinent to the certification or the appointment, and mail it to the Niagara County Civil Service Office.

Additionally, an RPC form must be submitted to Niagara County Civil Service for the appointee, indicating a permanent appointment, start date, and the salary. Keep a copy of the list for your records.

NON-COMPETITIVE CLASS APPOINTMENTS

According to Civil Service Law, a non-competitive class appointment can only be made to a position title listed in the Civil Service Rules and Appendices in the Non-Competitive Class.

Make sure that the position is a non-competitive class position (by checking your copy of the Niagara County Civil Service Rules & Appendices), and make sure you have the most recent job specification. The candidate must meet the minimum qualifications as stated on the job specification, but does not have to take an exam or be appointed from a list.

To make a non-competitive class appointment to a qualified candidate, please send a copy of the appointee's application form prior to appointment so that this office can verify the applicant meets the minimum qualifications. Once approved, submit an RPC form for the appointee, indicating a non-competitive class appointment with the start date and the salary.

LABOR CLASS APPOINTMENTS

According to Civil Service Law, a labor class appointment can only be made to a position title listed in the Civil Service Rules and Appendices in the Labor Class.

Make sure that the position is a labor class position (by checking your copy of the Niagara County Civil Service Rules & Appendices), and make sure you have the most recent job specification. There are no minimum qualifications for Labor Class positions, so you may appoint at will.

To make a labor class appointment, submit an RPC form for the appointee, indicating a labor class appointment with the start date and the salary. Along with the RPC form, please send a copy of the appointee's application form.

EXEMPT CLASS

According to Civil Service Law, an exempt class appointment can only be made to a position title listed in the Civil Service Rules and Appendices in the Exempt Class.

Per Civil Service Law §41, there must be authorization in New York State law for a position to be in the exempt class.

Make sure that the position is an exempt class position (by checking your copy of the Niagara County Civil Service Rules & Appendices), and make sure you have the most recent job specification. Exempt class appointees may serve a term of appointment at the pleasure of an elected or appointed official, as authorized by law. Therefore, there are no minimum qualifications and you may appoint at will.

To make an exempt class appointment, submit an RPC form for the appointee, indicating an exempt class appointment with the start date and the salary. Along with the RPC form, please send a copy of the appointee's application form.

IMPORTANT!

Non-Competitive, Labor or Exempt Class Appointments May Be Made ONLY TO POSITION TITLES THAT ARE LISTED for your jurisdiction (Town, School District, Village, Library, County Department) either generally, or for your (Town, School District, Village, Library, County Department) specifically, IN THE NIAGARA COUNTY CIVIL SERVICE RULES AND APPENDICES.

TEMPORARY APPOINTMENTS

Civil Service Law §64 allows for temporary appointments to competitive class positions when the permanent incumbent is on a leave from the position or in the event that the position will exist for only a short duration:

- 1) Three-month Temporary Appointment. "A temporary appointment may be made for a period not to exceed three months when the need for such service is important and urgent." As long as the requirements stated in CSL §64 are met, an appointment can be made to any person who meets the minimum qualifications of a position for up to three months even if there is an existing eligible list and this person is not on it.
- 2) Six-month Temporary Appointment. "A temporary appointment may be made for a period not exceeding six months" as long as "upon due inquiry" by the "appropriate municipal civil service commission" the situation meets the criteria as stated in civil service law. When there is an existing eligible list, a six-month temporary appointment can be granted only to a person who appears on that existing eligible list.
- 3) Beyond Six Months. Temporary appointment can only be made from the top three eligibles willing to accept a temporary appointment from an appropriate eligible list.

The intention of CSL §64 is to add some flexibility for appointing authorities to hire quickly and easily when "the need for such service is important and urgent," as determined by the municipal civil service commission, which in Niagara County is the Personnel Officer.

MAKING APPOINTMENTS

COMPETITIVE CLASS APPOINTMENTS: USING AN ELIGIBLE LIST

All competitive class positions must be filled by appointment from a certified eligible list (certified by the Niagara County Civil Service Office, under authority of the Niagara County Personnel Officer).

WHAT IS AN ELIGIBLE LIST?

An eligible list is a list of people who have taken and passed an exam. Each title has its own exam. Candidates who pass are ranked in order of their score on the exam. When an appointing authority (town, school district, county dept, etc.) wants to hire in a title, they request a “certified eligible list” of candidates from our office.

Eligible lists, once established as a result of an open competitive examination, have a life of 1 – 4 years (depending upon the decision of the Personnel Officer). More information about this can be found in Niagara County Rule X – Eligible Lists. We give exams year-round, so you really do need to check, you never know what we may have! Also, Niagara County has titles for which exams are scheduled on a “continuous recruitment” basis, which means we have a never-ending eligible list in many of these titles. Candidates are continuously added and removed from these lists that are frequently used by a municipality.

Very Important: If there is a current eligible list in the title that the agency/department wants to fill, this existing eligible list **MUST** be used if there are three candidates willing to accept appointment. **Civil Service Law prohibits appointing a provisional employee in the face of an existing eligible list.** More about this can be found in CSL §65 - Provisional Appointments (see attached CSL §65).

WHAT IS A CERTIFICATION OF ELIGIBLES or CERTIFIED ELIGIBLE LIST?

When an appointing authority requests a list from Niagara County Civil Service, we “certify” a list of candidates specifically for that appointing authority’s jurisdiction. The appointing authority can request a “resident” list. In that case, we would only certify people who were residents of that particular municipality or school district (etc). A “certified” list can include every candidate on the eligible list, or (especially in cases where the list is very long) a smaller group of candidates may be certified from among the complete list. For example, if an eligible list that has been established as the result of an exam has 100 candidates on it, perhaps our office might certify only the top 30 candidates to the appointing authority who requested a certified list. Every candidate who is considered within the “top three” (the “top three” means: the first candidate, the second candidate, the third candidate and every candidate whose score is tied with the score of the third candidate) **MUST** be included in a certification, but candidates beyond the top three may not be certified depending on the situation.

A certified eligible list will expire after sixty (60) days. This means that any appointment made from that list must be made within that sixty (60) day period. If the list expires before you are able to make an appointment, please return the list, signed and marked “No

Appointment Made.” You may request a new list if you would still like to appoint from it. In some cases, the certified list may be “exhausted.” This means that there are fewer than three candidates willing to accept appointment and the appointing authority is not interested in hiring the remaining candidate(s). If there are candidates who are on the eligible list but who were not “certified” (placed on the certified list that was canvassed), you can request the rest of the candidates to be certified out to you.

CATEGORIES OF EXAMINATIONS/ELIGIBLE LISTS

There are two general categories of civil service examinations:

1. **Open Competitive** – open to anyone who meets the minimum qualifications
2. **Promotional** – open only to candidates who have civil service status which meets the specific civil service status eligibility requirements.

Regardless of whether an examination is given on an open competitive basis or a promotional basis, there are two general types of examination administration:

1. **Decentralized** (Local) – the examinations are provided by the NYS Dept of Civil Service, but are scheduled and administered by the Niagara County Civil Service Department, and are scored locally.
2. **Scheduled** (State) – these are examinations which are scheduled by the NYS Dept of Civil Service on their Master Examination Schedule. Any local civil division in New York State can request these NYS-scheduled examinations as needed. Each examination is part of an examination series that is administered at the same time across the state. When Niagara County requests a particular examination, the examinations are sent to Niagara County via mail. The examinations and answer sheets are then sent back to the NYS Dept of Civil Service Testing Division by mail. The state Testing Division scores the examinations, and then provides those results back to the local civil division (such as Niagara County).

The results of an examination (whether open competitive, promotional, CR, scheduled) are entered into a Niagara County Civil Service examination database, which then can produce lists of eligible candidates, ranked by score, from the examination results.

MANDATORY AND NON-MANDATORY ELIGIBLE LISTS.

If a list has fewer than three eligible candidates on it, it is not a mandatory list—meaning an appointing authority is not legally obligated to canvass this list. This means that another examination in that title can be ordered (to create a new list). It also means that it would be permissible to appoint a provisional.

Any list that has three or more eligible candidates on it is a mandatory list, and must be used to fill competitive class positions according to New York State laws, rules and regulations.

HOW DO YOU KNOW WHETHER A POSITION IS COMPETITIVE CLASS OR NOT?

Article V, Section 6 of the New York State Constitution states that:

“appointments and promotions in the Civil Service of the State and all of the civil divisions thereof . . . shall be made according to merit and fitness to be ascertained, as far as practicable, by examination which, as far as practicable, shall be competitive . . .”

Therefore, **all positions in the Civil Service of New York State are considered to be competitive** unless an exception can be made *in accordance with all applicable laws, rules and regulations*. To ascertain the appropriate jurisdictional class of a position (competitive, non-competitive, labor, or exempt class), the position **must be classified** by the Niagara County Civil Service Personnel Officer. A position is classified by reviewing and analyzing the duties to be performed based upon written information and descriptions submitted by the person who is performing the duties, or by the appointing authority if there is no one currently performing the duties. When needed, more information will be gathered by telephone or face-to-face interviews (usually called desk audits or job audits).

If there are justifiable reasons, Niagara County Civil Service can make a formal request to the New York State Civil Service Commission relative to placing a position in the non-competitive, labor, or exempt class. These requests must be made in accordance with any applicable laws, rules and regulations. If such a request is approved by the State Civil Service Commission, the approved title will be listed in the appropriate appendix of the Niagara County Civil Service Rules & Appendices. Appendix A lists all approved Exempt Class titles; Appendix B lists all approved Non-Competitive Class titles; Appendix C lists all approved Labor Class titles; and Appendix D lists all titles that are considered to be unclassified (such as elected officials).

CANVASSING AN ELIGIBLE LIST.

To use an eligible list to fill a position, Niagara County Civil Service will canvass the list (find out if the candidates are interested). Once this office receives the results of the canvass, a certified eligible list of those candidates interested in the job will be sent to you.

A certified eligible list will include the candidates' names, addresses, phone numbers, rank, and score.

Once you received the certified eligible list you should contact the candidates to schedule interviews. If a candidate declines to be interviewed, he/she should send you a written declination or you can confirm the declination in writing to the candidate. It is important to keep careful records of all calls, interviews, and declinations. Written declinations can be a signed note from the candidate, a declination form, or an email sent by the candidate and printed. Mark their declination on the list next to their name and attach the written proof to the list. If they fail to respond to your attempts to contact them, send a letter documenting the contact attempts and inform the candidate that their failure to respond has resulted in their name being removed from consideration. These records must be attached to the eligible list as evidence of the processing of the list. These records are essential because any candidate in the top group who turns down the job can then be bypassed on the list, which will change who is reachable on the list.

You must hire one of the top three willing to accept. This is defined in the next section.

THE TOP THREE WILLING TO ACCEPT.

Civil Service Law and Rules require that appointments from eligible lists be made according to the “Rule of Three.” The “Rule of Three” means that only a candidate who is one of the top three candidates willing to accept can be appointed. The top three means—the three highest candidates, plus everyone tied with the third candidate’s score. Any candidate who is considered to be in the “top three” is “reachable” on the list.

There are numerous situations which will affect and change the candidates that are considered the top three. Some examples include:

1. A candidate who has been canvassed and has responded in writing that they are not interested is considered removed from that particular certification of the eligible list. This changes the position of the other candidates on the list. Refusing a canvass does not necessarily mean that the candidate is removed from the list, just from the certification held by the appointing authority.
2. A candidate who has been appointed somewhere else may still appear on the certification if their appointment has not been processed yet. This would change the position of other candidates on the list.
3. If shifts on the list cause a candidate with a previously not-reachable score to reach third place on the list, every candidate whose score is tied with the newly-third place candidate become reachable.
4. If a jurisdiction requests a “resident list” that will change which candidates are on the list, and therefore, candidates’ reachability on the list. A resident list is a list of those candidates on the complete eligible list that are residents of the jurisdiction that is canvassing – residents of the city, town, school district, village, etc.

“RULE OF THREE” EXAMPLE.

Certified Eligible List #XXXXXX

<u>NAME</u>	<u>SCORE</u>	<u>RANK</u>
John Brown	100	1
Joan Black	100	2
Jack Green	95	3
Jill Blue	95	4
James Gold	95	5
Jane Doe	90	6

On this list, John Brown, Joan Black and Jack Green are the top three. But Jack Green (rank #3) has a score of 95. The “top three” includes anyone tied with #3’s score, so Jill Blue and James Gold are also reachable on this list.

Jane is not reachable at all *unless* three candidates above her are removed from the list by declination, being appointed, or failing to respond to the canvass, etc. That is why it is really important to keep track of people’s responses when they refuse an interview or appointment. Getting a documented declination makes that person come off that particular certification of the list.

NON-COMPETITIVE CLASS AND LABOR CLASS APPOINTMENTS

ABOUT NON-COMPETITIVE APPOINTMENTS

1. Non-Competitive Temporary Appointments: it would be a Non-Competitive Temporary appointment if the person will be working *3 months or less, OR for a "season"* such as over the summer. A Non-Competitive Temporary appointment *must have a beginning date and an ending date.*
2. Non-Competitive Permanent Appointments: If the person will be working over a period *exceeding 3 months or one season*, if, in other words, there is a beginning date for their appointment but NOT AN ENDING DATE (because they will keep working, they will remain on the payroll), then they must be given a Non-Competitive Permanent Appointment (regardless of whether they will work full time or part time).
3. An employee who has a Non-Competitive Class appointment can be terminated at will by the employer/appointing authority, regardless of whether the appointment is permanent or temporary, part-time or full-time. After 5 years in a non-competitive class appointment (regardless of whether the appointment is part-time or full-time) the appointee gains CSL §75 rights (see attached CSL §75).

ABOUT LABOR CLASS APPOINTMENTS

1. Labor Class Temporary Appointments: it would be a Labor Class Temporary appointment if the person will be working *3 months or less, OR for a "season"* such as over the summer. A Labor Class Temporary appointment *must have a beginning date and an ending date.*
2. Labor Class Permanent Appointments: If the person will be working over a period *exceeding 3 months or one season*, if, in other words, there is a beginning date for their appointment but NOT AN ENDING DATE (because they will keep working, they will remain on the payroll), then they must be given a Labor Class Permanent Appointment (regardless of whether they will work full time or part time).
3. An employee who has a Labor Class appointment can be terminated at will by the employer/appointing authority, regardless of whether the appointment is permanent or temporary, part-time or full-time.

IMPORTANT!

Non-Competitive, Labor or Exempt Class Appointments May Be Made ONLY TO POSITION TITLES THAT ARE LISTED for your jurisdiction (Town, School District, Village, Library, County Department, etc) either generally, or for your (Town, School District, Village, Library, County Department) specifically, IN THE NIAGARA COUNTY CIVIL SERVICE RULES AND APPENDICES.

CLASSIFICATION OF POSITIONS

Civil Service Law §22. Certification for positions states:

Before any new position in the service of a civil division shall be created or any existing position in such service shall be reclassified, the proposal therefor, including a statement of the duties of the position, shall be referred to the municipal commission having jurisdiction and such commission shall furnish a certificate stating the appropriate civil service title for the proposed position or the position to be reclassified. Any such new position shall be created or any such existing position reclassified only with the title approved and certified by the commission.

Niagara County Civil Service Rule XXII, Classification Plan states:

The Personnel Officer shall have the power and duty to:

- a) Classify and reclassify all positions in the civil service of all civil divisions under his/her jurisdiction.
- b) Prepare and maintain job classification specifications for each class of positions in the competitive, non-competitive and labor classes under the jurisdiction of the Personnel Officer and establish appropriate minimum qualifications for each class.
- c) Investigate all matters affecting the classification and reclassification of all positions and from time to time review the duties, responsibilities and qualification requirements of all positions under his/her jurisdiction and to make revisions in the classification of positions.

In order for Niagara County Civil Service to perform classification duties as required by Civil Service Law and Rules, it is your obligation to inform Niagara County Civil Service of any changes relative to positions in your jurisdiction, including:

1. Substantial changes in the duties of an already established position
 - i. If there's an incumbent, and what they do has changed.
 - ii. If there's a retirement/resignation/termination, and you want to change the position before appointing a new person.
2. Establishing a new position
 - i. If you want/need to establish a completely new position.
 - ii. If you want to add an additional position in an already established classification (for example, you have a Clerk in a Department and you want to add another Clerk position)

CLASSIFICATION OF A NEW OR EXISTING POSITION.

**WHEN YOU NEED TO FILL AN ALREADY-ESTABLISHED POSITION,
OR ESTABLISH A NEW POSITION,
THE FIRST STEP IS TO CONTACT OUR OFFICE.**

If it's a new position, it must be classified first. When we inform you what the classification is, we will also tell you what class (competitive, non-competitive, etc.) it is, and how to appoint to it.

If it's an already established position that is vacant and the municipality wants to fill it, contact us to see if there's a current eligible list in the title. Or, if the position has already been established as a non-competitive, labor, or exempt class position (listed as such in the appropriate appendix of the Niagara County Civil Service Rules & Appendices), then follow procedures for appointing to non-competitive, labor, or exempt class positions (see the "Explanation of Appointments" section, starting on page 4).

RPC FORMS AND HOW TO USE THEM

An **RPC** (“**Report of Personnel Change**”) form needs to be submitted whenever there is a change relative to an employee. You should submit an RPC form when any employee (regardless of whether temporary, permanent, part time, full time, competitive, non-competitive, labor or exempt class, etc.) is:

- **Appointed** (hired)
- **Promoted** (position/title change)
- **Salary Change** (receives a COLA or other legal salary change)
- **Terminated or Resigns**
- **Changes Name or Address**
- **Leave** (goes on paid or unpaid leave)

The RPC form will tell you what dates or back-up material is required for each of the above changes. For example, for a permanent appointment, you must note the start date; for a temporary appointment you must note both start and end date. The RPC form will remind you.

USING ONE RPC FORM FOR MULTIPLE EMPLOYEES.

There are two situations where it is acceptable to fill out only ONE RPC form to use for a whole list of people:

1. If you have a list of people to be appointed for a season. Example: when you appoint recreation assistants, etc. for temporary appointments to work in summer programs.

HOW TO DO IT: Fill out ONE RPC form with the correct appointment title and dates. In the place where you'd usually put the employee's information, write “see attached multi list.” Then, attach a list of the people who are to get that appointment. **IMPORTANT:** We still need personnel information about each of those people (address, SS#, birthdates, oath of office date and certifications when required), therefore, you'd still need to submit copies of each employees' application form. But you wouldn't have to copy the information or make separate RPCs.

2. Salary Increases. Usually salaries increase or change at the beginning of the fiscal year due to COLA or benefits payments, etc. Salary changes for a group of employees can also be submitted with ONE RPC form, with the list of employees, their titles, and salary changes attached. Please include the old and new salaries for only those employees affected by the change.

RPC FORMS MUST COME WITH APPLICATION FORMS

Every RPC for a new appointment (a promotional appointment is considered a new appointment) must be accompanied by the appointee's application form.

When an already-appointed employee gets a new appointment or a promotional appointment, they must complete a new application form.

PAYROLL CERTIFICATION

Civil Service Law § 100, Certification of payrolls, states:

Payroll certification required.

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

To certify your payroll, we check our civil service records to make sure that all persons who are paid with taxpayers' dollars have been properly appointed. Our first step, when there are problems with the payroll, will be to work with the appointing authority to correct them before certifying the payroll. When it is not possible to resolve problems prior to certifying the payroll, we will certify it **with exceptions**. Every exception is clearly explained on the copy of the certified payroll that is mailed back to the appointing authority. Instructions about how to fix the exception, including documents that must be submitted, etc. are stated in writing to the appointing authority.

Per Civil Service Law §101, "it is a misdemeanor to pay salary or compensation for which certification has been refused."

If, due to unresolved exceptions, Niagara County Civil Service must refuse to certify a payroll, any officer of that jurisdiction (town, school, village, etc.) can be held personally liable for any monies paid out.

LAYOFF

Layoff of employees in the civil service is governed by New York State Civil Service Law §80 and §81, and by Niagara County Civil Service Rule XXV. Other laws, rules and regulations may also apply. There are very specific requirements under the law and rules regarding suspension and demotion upon abolition and reduction of positions in the civil service.

WE STRONGLY URGE YOU TO CONTACT NIAGARA COUNTY CIVIL SERVICE AS EARLY AS POSSIBLE IF IT BECOMES NECESSARY TO CONSIDER LAYOFF OF EMPLOYEES OR ABOLITION OF POSITIONS.

Our experienced staff can advise you in these difficult situations to ensure that New York State law is complied with at every step, and to provide support and information to all involved.

APPENDICES

I. GLOSSARY OF CIVIL SERVICE TERMS

II. USEFUL SECTIONS OF NEW YORK STATE CIVIL SERVICE LAW*

- CSL §41 – Exempt Class
- CSL §64 – Temporary Appointments
- CSL §65 – Provisional Appointments
- CSL §75 – Removal and Other Disciplinary Action

* **Please note:** a searchable version of **New York State Civil Service Law** is **available online** at the below website:

<http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>:

III. USEFUL CIVIL SERVICE FORMS*

- MSD 220 Classification Survey Form
- MSD 222 New Position Duties Statement form
- NC 222S Request for Additional Positions form
- RPC (Report of Personnel Change) form

* **Please note:** all **civil service forms** are **available as computerized documents** that can be copied, saved and completed on the computer. All forms completed on computer must be printed for signatures and submittal.

GLOSSARY OF CIVIL SERVICE CLASSIFICATION TERMS

Appointing Authority

The term "appointing authority" or "appointing officer" means the officer, commission or body having the power to make appointments to subordinate positions—in other words, the power to hire and fire. (Civil Service Law §2.9)

Classification Review

A Classification Review usually means that *one particular job* is reviewed by the Personnel Officer. This review can be requested first by an incumbent in a position (but the supervisor must participate), or by the supervisor, or may be undertaken by the Personnel Officer without request. Some possible reasons to initiate a classification review would be: the duties of the position have changed over time, and therefore, the correctness of the classification needs to be checked; or the level of performance of the duties has changed substantially,. The classification review requires that the incumbent of the position complete a Job Analysis Questionnaire. If questions remain after a review of the Questionnaire, the Personnel Officer will conduct a **desk audit** (see below for definition)

Classification Survey Form

A Classification Survey is conducted in order to examine the duties and responsibilities of *positions* in a department or agency *as a group*. As a result of the Classification Survey, positions that have similar or related duties, responsibilities, skills and abilities will be looked at in relation to each other. The work requirements and responsibilities of each position or group of positions will be carefully described in a "job specification" which will also specify the minimum qualifications needed by applicants for a position or examination in that title.

Desk Audit

A desk audit means that a civil service staff member spends some time with an incumbent at their desk (or place of work), and actually sees examples of the work performed, and clarifies any questions about the work.

Job Classification and Evaluation Form

This form is meant to be completed primarily by the incumbent of a position. The incumbent describes the work they actually perform. The supervisor reviews what the incumbent has written, and can add comments, but cannot change what the incumbent has written. This is completed and submitted to Niagara County Civil Service whenever a position needs to be classified or reviewed.

Job Specification ("Spec")

A Job Specification (usually referred to as a "spec") is a written description of a job. A Job Spec contains the following sections: the Job Title; Distinguishing Features of the Class (a general description of the job responsibilities and requirements, as well as the type of supervision provided and/or given); Typical Work Activities (a list of duties commonly performed by an incumbent of this job), Knowledge, Skills, Abilities, & Personal Characteristics (the level and type of attributes required to perform the work of the job); Minimum Qualifications (the minimum qualifications that must be met in order for a person to be appointed to a position, or approved to take an examination for a position); and any Special Requirements. The spec also has information about when the spec was created, when revised or updated, and what jurisdictional class the job is placed in (competitive, non-competitive, exempt or labor class).

New Position Duties Statement (MSD 222) Form

This form is used by a supervisor or appointing authority to describe a position that they would like to create, which does not currently exist. This form should be submitted to Niagara County Civil Service whenever the appointing authority wishes to establish a completely new position that has not previously existed in that agency or department.

New Position Duties Statement (NC 222-S) Form

This form is used by the appointing authority when a title already exists but an additional position(s) needs to be created. The appointing authority fills out this short form to certify that the duties to be assigned to the new position are those reflected in the current job specification and performed by other employees in the same title.

Supervision Definitions

- **Direct Supervision** means that either all work shall be reviewed and its performance closely supervised, or all work which is other than routine in terms of the skills required shall be reviewed and its performance supervised.

- **General Supervision** This is supervision received when the position is subject to control through conference, review of reports and occasional on-the-job inspection. This is supervision received when the incumbent of a position is thoroughly trained. Under this type of supervision, the work is not constantly reviewed or checked, but supervision is normally available when needed.

- **General Direction** This is supervision received by heads of departments or semi-autonomous divisions within departments. This term cannot normally be used where the position is subject to any more than simply general administration and policy controls.

Civil Service Law - § 41. Exempt class.

§ 41. Exempt class. 1. The following offices and positions shall be in the exempt class:

(a) one secretary of each state department or division, temporary state commission or other state officer authorized by law to appoint a secretary;

(b) the deputies of principal executive officers authorized by law to act generally for and in place of their principals;

(c) one secretary of each municipal board or commission authorized by law to appoint a secretary;

(d) one clerk and one deputy clerk if authorized by law, of each court, and one clerk of each elective judicial officer, and also one deputy clerk, if authorized by law, of any justice of the supreme court;

(e) all other subordinate offices or positions for the filling of which competitive or non-competitive examination may be found to be not practicable. Not more than one appointment shall be made to or under the title of any office or position placed in the exempt class pursuant to the provisions of this paragraph, unless a different number is specifically prescribed in the rules.

2. No office or position shall be deemed to be in the exempt class unless it is specifically named in such class in the rules. Upon the occurrence of a vacancy in any position in the exempt class, the state or municipal civil service commission having jurisdiction shall study and evaluate such position and, within four months after the occurrence of such vacancy, shall determine whether such position, as then constituted, is properly classified in the exempt class. Pending such determination, said position shall not be filled, except on a temporary basis.

Civil Service Law - § 64. Temporary appointments

§ 64. Temporary appointments. 1. Temporary appointments authorized; duration. A temporary appointment may be made for a period not exceeding three months when the need for such service is important and urgent. A temporary appointment may be made for a period exceeding three months under the following circumstances only: (a) when an employee is on leave of absence from his position, a temporary appointment to such position may be made for a period not exceeding the authorized duration of such leave of absence as prescribed by statute or rule; (b) a temporary appointment may be made for a period not exceeding six months when it is found by the state civil service department or appropriate municipal civil service commission, upon due inquiry, that the position to which such appointment is proposed will not continue in existence for a longer period; provided, however, that where a temporary appointment is made to a position originally expected to exist for no longer than six months and it subsequently develops that such position will remain in existence beyond such six-month period, such temporary appointment may be extended, with the approval of the state civil service department or municipal civil service commission having jurisdiction, for a further period not to exceed an additional six months; (c) when the department of civil service or appropriate municipal civil service commission of any city containing more than one county finds that a reduction or abolition of positions in the state service or such city service is planned or imminent and that such reduction or abolition of positions will probably result in the suspension or demotion of permanent employees, such department or commission may authorize temporary instead of permanent appointments to be made for a period not exceeding one year in positions in state service or such city service to which permanent employees to be affected by such abolition or reduction of positions will be eligible for transfer or reassignment. Successive temporary appointments shall not be made to the same position after the expiration of the authorized period of the original temporary appointment to such position.

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

3. Temporary appointments without examination in exceptional cases. Notwithstanding the provisions of subdivisions one and two of this section, the civil service department or municipal commission having jurisdiction may authorize a temporary appointment, without examination, when the person appointed will render professional, scientific, technical or other expert services (1) on an occasional basis or (2) on a full-time or regular part-time basis in a temporary position established to conduct a special study or project for a period not exceeding eighteen months. Such appointment may be authorized only in a case where, because of the nature of the services to be rendered and the temporary or occasional character of such services, it would not be practicable to hold an examination of any kind.

4. The state and municipal civil service commissions may, by rule, provide for the extension of some or all of the rights and benefits of permanent status to an employee who is appointed or promoted, after having qualified therefor in the same manner as required for permanent appointment or promotion, to a position left temporarily vacant by the leave of absence of the permanent incumbent thereof. Such rights and benefits shall be subject to such conditions and limitations as may be prescribed in the rules.

Civil Service Law § 65. Provisional Appointments.

1. Provisional appointments authorized. Whenever there is no appropriate eligible list available for filling a vacancy in the competitive class, the appointing officer may nominate a person to the state civil service department or municipal commission for non-competitive examination, and if such nominee shall be

certified by such department or municipal commission as qualified after such non-competitive examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination. Such non-competitive examination may consist of a review and evaluation of the training, experience and other qualifications of the nominee, without written, oral or other performance tests.

2. Time limitation on provisional appointments. No provisional appointment shall continue for a period in excess of nine months. The civil service department shall for competitive positions within its jurisdiction, and a municipal civil service commission shall for competitive positions within its jurisdiction, order a civil service examination for any position held by provisional appointment for a period of one month and such department or commission shall conduct a civil service examination, or see that such an examination is conducted, as soon as practicable thereafter, in order to prevent the provisional appointment from continuing for a period in excess of nine months.

3. Termination of provisional appointments. A provisional appointment to any position shall be terminated within two months following the establishment of an appropriate eligible list for filling vacancies in such positions; provided, however, that where there are a large number of provisional appointees in any department or agency in the service of the state or any civil division thereof to be replaced by permanent appointees from a newly established eligible list, and the appointing officer or body deems that the termination of the employment of all such provisional appointees within two months following establishment of such list would disrupt or impair essential public services, evidence thereof may be presented to the civil service department or municipal commission having jurisdiction which, after due inquiry, and upon finding that it is in the best interest of the public service, may waive the provisions of this subdivision requiring the termination of the employment of provisional appointees within two months following the establishment of an appropriate eligible list and authorize the termination of the employment of various numbers of such provisional appointees at stated intervals prescribed by such commission; provided, however, that in no case shall the employment of any such provisional appointee be continued longer than four months following the establishment of such eligible list.

4. Successive provisional appointments. Successive provisional appointments shall not be made to the same position after the expiration of the authorized period of the original provisional appointment to such position; provided, however, that where an examination for a position or group of positions fails to produce a list adequate to fill all positions then held on a provisional basis, or where such list is exhausted immediately following its establishment, a new provisional appointment may be made to any such position remaining unfilled by permanent appointment, and such new provisional appointment may, in the discretion of the appointing authority, be given to a current or former provisional appointee in such position, except that a current or former provisional appointee who becomes eligible for permanent appointment to any such position shall, if he is then to be continued in or appointed to any such position be afforded permanent appointment to such position.

Civil Service Law of New York State § 75. Removal and other disciplinary action.

§ 75. Removal and other disciplinary action. 1. Removal and other disciplinary action. A person described in paragraph (a) or paragraph (b), or paragraph (c), or paragraph (d), or paragraph (e) of this subdivision shall not be removed or otherwise subjected to any disciplinary penalty provided in this section except for incompetency or misconduct shown after a hearing upon stated charges pursuant to this section.

(a) A person holding a position by permanent appointment in the competitive class of the classified civil service, or

(b) a person holding a position by permanent appointment or employment in the classified service of the state or in the several cities, counties, towns, or villages thereof, or in any other political or civil division of the state or of a municipality, or in the public school service, or in any public or special district, or in the service of any authority, commission or board, or in any other branch of public service, who was honorably discharged or released under honorable circumstances from the armed forces of the United States having served therein as such member in time of war as defined in section eighty-five of this chapter, or who is an exempt volunteer firefighter as defined in the general municipal law, except when a person described in this paragraph holds the position of private secretary, cashier or deputy of any official or department, or

(c) an employee holding a position in the non-competitive class other than a position designated in the rules of the state or municipal civil service commission as confidential or requiring the performance of functions influencing policy, who since his last entry into service has completed at least five years of continuous service in the non-competitive class in a position or positions not so designated in the rules as confidential or requiring the performance of functions influencing policy, or

(d) an employee in the service of the City of New York holding a position as Homemaker or Home Aide in the non-competitive class, who since his last entry into city service has completed at least three years of continuous service in such position in the non-competitive class, or

(e) an employee in the service of a police department within the state of New York holding the position of detective for a period of three continuous years or more; provided, however, that a hearing shall not be required when reduction in rank from said position is based solely on reasons of the economy, consolidation or abolition of functions, curtailment of activities or otherwise.

2. Procedure. An employee who at the time of questioning appears to be a potential subject of disciplinary action shall have a right to representation by his or her certified or recognized employee organization under article fourteen of this chapter and shall be notified in advance, in writing, of such right. A state employee who is designated managerial or confidential under article fourteen of this chapter, shall, at the time of questioning, where it appears that such employee is a potential subject of disciplinary action, have a right to representation and shall be notified in advance, in writing, of such right. If representation is requested a reasonable period of time shall be afforded to obtain such representation. If the employee is unable to obtain representation within a reasonable period of time the employer has the right to then question the employee. A hearing officer under this section shall have the power to find that a reasonable period of time was or was not afforded. In the event the hearing officer finds that a reasonable period of time was not afforded then any and all statements obtained from said questioning as well as any evidence or information obtained as a result of said questioning shall be excluded, provided, however, that this subdivision shall not modify or replace any written collective agreement between a public employer and employee organization negotiated pursuant to article

fourteen of this chapter. A person against whom removal or other disciplinary action is proposed shall have written notice thereof and of the reasons therefor, shall be furnished a copy of the charges preferred against him and shall be allowed at least eight days for answering the same in writing. The hearing upon such charges shall be held by the officer or body having the power to remove the person against whom such charges are preferred, or by a deputy or other person designated by such officer or body in writing for that purpose. In case a deputy or other person is so designated, he shall, for the purpose of such hearing, be vested with all the powers of such officer or body and shall make a record of such hearing which shall, with his recommendations, be referred to such officer or body for review and decision. The person or persons holding such hearing shall, upon the request of the person against whom charges are preferred, permit him to be represented by counsel, or by a representative of a recognized or certified employee organization, and shall allow him to summon witnesses in his behalf. The burden of proving incompetency or misconduct shall be upon the person alleging the same. Compliance with technical rules of evidence shall not be required.

3. Suspension pending determination of charges; penalties. Pending the hearing and determination of charges of incompetency or misconduct, the officer or employee against whom such charges have been preferred may be suspended without pay for a period not exceeding thirty days. If such officer or employee is found guilty of the charges, the penalty or punishment may consist of a reprimand, a fine not to exceed one hundred dollars to be deducted from the salary or wages of such officer or employee, suspension without pay for a period not exceeding two months, demotion in grade and title, or dismissal from the service; provided, however, that the time during which an officer or employee is suspended without pay may be considered as part of the penalty. If he is acquitted, he shall be restored to his position with full pay for the period of suspension less the amount of any unemployment insurance benefits he may have received during such period. If such officer or employee is found guilty, a copy of the charges, his written answer thereto, a transcript of the hearing, and the determination shall be filed in the office of the department or agency in which he has been employed, and a copy thereof shall be filed with the civil service commission having jurisdiction over such position. A copy of the transcript of the hearing shall, upon request of the officer or employee affected, be furnished to him without charge.

3-a. Suspension pending determination of charges and penalties relating to police officers of the police department of the city of New York. Pending the hearing and determination of charges of incompetency or misconduct, a police officer employed by the police department of the city of New York may be suspended without pay for a period not exceeding thirty days. If such officer is found guilty of the charges, the police commissioner of such department may punish the police officer pursuant to the provisions of sections 14-115 and 14-123 of the administrative code of the city of New York.

4. Notwithstanding any other provision of law, no removal or disciplinary proceeding shall be commenced more than eighteen months after the occurrence of the alleged incompetency or misconduct complained of and described in the charges or, in the case of a state employee who is designated managerial or confidential under article fourteen of this chapter, more than one year after the occurrence of the alleged incompetency or misconduct complained of and described in the charges, provided, however, that such limitations shall not apply where the incompetency or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.