

# RULES FOR CLASSIFIED CIVIL SERVICE

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**RULES FOR THE CLASSIFIED CIVIL SERVICE**

**For Niagara County**

As Acted on by the

New York State Civil Service Commission on February 8, 2010

**PURPOSE AND EFFECT**

It is hereby declared to be the purpose of these rules to provide an orderly and uniform system for the administration of Civil Service in Niagara County on the basis of merit and fitness as provided in the Civil Service Law of the State of New York. These rules have the force and effect of law, and apply to all positions in the classified service of Niagara County as well as the cities, towns, villages, schools, and special districts therein. These rules may be amended by the Personnel Officer after public hearing and are subject to the approval of the State Civil Service Commission.

## CONSTITUTIONALITY OF RULES

### EXCERPTS FROM STATE CONSTITUTION AND CIVIL SERVICE LAW

#### Article V - Officers and Civil Departments

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

#### CIVIL SERVICE LAW

##### Section 20 -- Rules

1. Scope of Rules. Each municipal civil service commission shall prescribe, amend and enforce suitable rules for carrying into effect the provisions of this chapter and of Article V, Section 6 of the constitution of the state of New York, including rules for jurisdictional classification of the offices and employments in the classified service under its jurisdiction, for the position classification of such offices and employments, for examinations therefor and for appointments, promotions, transfers, resignations and reinstatements therein, all in accordance with the provisions of this chapter.
2. The rules and any modifications thereof adopted by a county civil service commission shall be valid and take effect only upon approval of the state civil service commission. Such rules shall have the force and effect of law.

##### Section 100 -- Certification of Payrolls

1. Payroll certification required. (a) Except as otherwise provided in this section, no disbursing or auditing officer of the state or of any civil division thereof shall approve or pay or take any part in approving or paying any salary or compensation for personal service to any person holding an office or position in the classified service unless the voucher or payroll 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.

##### Section 101 –

##### **Misdemeanor to Pay Salary or Compensation for which Certification has been Refused**

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

## RULE I

### DEFINITIONS

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

1. **PERSONNEL OFFICER** - means the Personnel Officer of the County of Niagara.
2. **EMPLOYEE** - means the incumbent of a position appointed to the position in accordance with these rules and the Civil Service Law.
3. **POSITION** - means an aggregation of duties to be performed and responsibilities to be exercised by one person in a civil division.
4. **COMPENSATION** - means the remuneration authorized for a position and shall include food, lodging, maintenance and commutation when the same is furnished.
5. **ELIGIBLE LIST** - means an official record established and maintained by the Personnel Officer as a public record which contains the names of those persons who have successfully completed an examination, listed in order of their final ratings from the highest to the lowest rank.
6. **PART-TIME EMPLOYMENT** - means any employment or combination of one or more employments in a civil division in which an individual works fifty percent (50%) or less of the time prescribed as the standard work week by the governing body or other appropriate authority of the civil division or where the employee earns not more than one-half (1/2) of the rate assigned to the position if the position has been allocated to a graded salary schedule.
7. **TRANSFER** - means the change, without further examination, of a permanent employee from a position under the jurisdiction of one appointing authority to a similar position under the jurisdiction of the same appointing authority or another appointing authority, or to a position in a different title under the jurisdiction of the same appointing authority or another appointing authority.
8. **REASSIGNMENT** - means the change, without examination, of a permanent employee from one position to another similar position in the same title under the jurisdiction of the same appointing authority.
9. **CIVIL DIVISION** - means each county, town, city, village, school district, community college, public authority, or special district.

## **RULE II**

### **EXEMPT CLASS**

Positions approved by the State Civil Service Commission for placement in the exempt class pursuant to Section 41 of the Civil Service Law shall be listed in Appendix A of these rules.

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## **RULE III**

### **NON-COMPETITIVE CLASS**

1. Non-competitive Positions; Approval and Designation

Positions approved by the State Civil Service Commission pursuant to Section 42 of the Civil Service Law for placement in the non-competitive class shall be listed in Appendix B of these rules. The municipal Personnel Officer shall designate titles in Appendix B that involve confidentiality or require the performance of functions influencing policy for the purposes of excluding such positions from the statutory provisions on removal and disciplinary proceedings.

2. Nomination for Non-competitive Appointment

A position in the non-competitive class may be filled by the appointment of a person who meets the minimum qualifications established for such position by the Personnel Officer. A nomination for such an appointment shall state the qualifications of the nominee and shall be filed, prior to any appointment, by the appointing authority with the Personnel Officer. Such appointment shall become effective only after approval by the Personnel Officer.

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## **RULE IV**

### **LABOR CLASS**

1. Approval of Labor Class Positions

Positions approved by the State Civil Service Commission pursuant to Section 43 of the Civil Service Law for placement in the labor class shall be listed in Appendix C of these rules.

2. Filling of a Labor Class Position

A position in the labor class may be filled by the appointment of any person selected by the appointing officer of the agency where a vacancy exists, and the Personnel Officer may require applicants for employment in the labor class to qualify in such tests of their fitness for employment as may be deemed practicable.

## **RULE V**

### **UNCLASSIFIED SERVICE**

Positions approved by the State Civil Service Commission pursuant to Section 35 of the Civil Service Law for placement in the unclassified service shall be listed in Appendix D of these rules.

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## **RULE VI**

### **RECRUITMENT OF PERSONNEL**

#### 1. Residence Requirements for Civil Division Positions

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

#### 2. Announcements of examinations

The public announcement of an examination shall specify the application fee, if any, the title, the duties of the position, the minimum qualifications required, the issue date, the final date for filing applications, the subjects or scope of the examination and the relative weights thereof, and if known, the date and place of the examination. Public notice of open-competitive and promotion examinations shall be made at least twenty-five (25) days before the date of the examination and must be conspicuously posted in a public place for fifteen days. The last day for filing applications shall be not less than ten days before the date of the open-competitive examination.

## **RULE VII**

### **APPLICATIONS**

1. Receipt and Disposition of Applications
  - a. Applications of candidates for positions in the classified service must be submitted to the Personnel Officer on the form and in the manner prescribed by the Personnel Officer.
  - b. The burden of establishing qualifications to the satisfaction of the Personnel Officer shall be upon the applicant.
  - c. The Personnel Officer shall notify each applicant for competitive examination of the disposition of his/her application at least four (4) days before the examination.
  
2. Release of Application Information

A candidate's application for appointment or examination may be exhibited, upon request, to the appointing officer to whom his/her name is certified, or to the appointing officer's representative, provided, however, that information therein relating to the candidate's national origin or indicating whether his/her citizenship is by birth or naturalization shall not be divulged. Before a candidate's application for examination is exhibited to the appointing officer or an authorized representative, all reference therein to the candidate's national origin or to the basis of his/her citizenship shall be concealed.

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## **RULE VIII**

### **DISQUALIFICATION**

1. Disrespect for Processes of Law

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.
  
2. Verification of Qualifications

Any applicant who refuses to permit the Personnel Officer to investigate matters necessary for the verification of his/her qualifications or who otherwise hampers, impedes or fails to cooperate with the Personnel Officer in such investigation shall be disqualified for examination or, after examination, for certification and appointment.
  
3. Notification of Disqualification

Any applicant, whose application is disqualified for an examination, shall be notified of the reasons for such disqualification and afforded an opportunity to submit facts in opposition to such disqualification prior to final disposition of such application.

## **RULE IX**

### **EXAMINATIONS**

1. Examinations prepared and rated by the New York State Civil Service Department
  - a. For examinations prepared and rated by the State Civil Service Department, the provisions of the rules and regulations of the State Civil Service Commission and Department shall govern the rating of examinations, the review of examination papers by candidates and the filing of appeals.
  - b. The State Civil Service Commission shall have sole and exclusive authority to correct any errors in rating upon appeal or otherwise.
2. Examinations prepared and/or rated by the Municipal Civil Service Personnel Officer
  - a. The Personnel Officer shall adopt a system to conceal the identity of the candidates' papers in a written examination until such written examination has been rated.
  - b. Rating keys shall be prepared for each examination held. Such keys shall be a permanent part of the record of each examination. The marking of an examination shall be made on the scale of 100, with 70 the passing score. The Personnel Officer may, after the announcement of an examination is made, subdivide the written examination into parts and require a passing mark of 70 in each of the parts in order that candidates be considered for further eligibility. Notice of such arrangements shall be given in the instructions of the written examination.
  - c. 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 examination shall be prescribed as part of an examination, every effort shall be made to insure that a stenographic or recording device record of all the questions and answers be made part of the examination records.
  - d. Every candidate in an examination shall be notified in writing of his/her final rating. Except for continuous recruitment examinations, he/she shall also, if successful, be notified of his/her relative position on any eligible list established as a result of the examination.
  - e. Except for candidates in continuous recruitment examinations, any candidate receiving such notice may inspect his/her examination papers in the office of the Personnel Officer and in the presence of a designated representative of the Personnel Officer, provided he/she makes his/her request for such inspection, in writing, within ten (10) days of the date of the postmark of such notice. The examination papers of a candidate shall be exhibited only to the candidate except that a candidate may bring a consultant to review the record of an oral examination. The consultant must be approved by the Personnel Officer prior to the review and may not be an individual who was in any way involved in the preparation, conduct, or administration of the examination.

## **RULE IX - EXAMINATIONS – CONTINUED**

- f. A candidate who wishes to appeal to the Personnel Officer from his/her rating in one, or more, or all of the subjects of an examination must submit such appeal in writing within twenty (20) days after the earliest date on which his/her examination papers were made available for his/her inspection. Such appeal must show that a manifest error was made in the original rating. Such appeal shall be considered as opening all of the candidate's papers for review, whether resulting in a higher or lower standing. No change in rating shall be made as a result of an appeal unless it shall affect the candidate's relative position on the eligible list.
  - g. There shall be no reviews of examinations conducted on a continuous recruitment basis other than for a computational check of the candidate's answers against the key answers; nor shall there be reviews of practical or performance examinations.
3. Examinations generally
- a. The Personnel Officer may at any time during the life of an eligible list, resulting from any examination whether prepared and rated by the Personnel Officer, except as provided in 1b, correct any clerical or computational errors in the ratings of candidates who competed in the examination.
  - b. Any change in an eligible list pursuant to this rule shall be made without prejudice to the status of any person previously appointed from such eligible list.
4. Examination Material Security

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

- a. No person shall copy, record or transcribe any examination questions or answers, or remove from the examination room or possess outside the examination room, any question sheet, answer sheet or booklet, scrap papers, notes or any other papers or materials relating to such examination.
- b. A candidate in an examination shall not at any time communicate with an examiner concerning the conduct or content of such examination; and shall not directly or indirectly communicate to any other person information concerning the content of such examination until completion of the testing of all candidates.

No examiner, proctor or other person charged with the supervision of a candidate or group of candidates during an examination shall have authority to waive the provisions of this subdivision. A person who is found by the Personnel Officer to have violated the provisions of this subdivision or any similar provision of the rules of any other civil service jurisdiction within the State of New York shall be disqualified from appointment to the position for which the examination is being held and may be disqualified from being a candidate for any civil service examination for a period of five (5) years.

## **RULE X**

### **ELIGIBLE LISTS**

#### 1. Passing Grade and Ranking

Every candidate who attains a passing grade in an examination as a whole or 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/she was examined and his/her name shall be entered on the eligible list in the order of his/her final rating; but if two or more eligibles receive the same final grade, they shall be ranked in accordance with such uniform, impartial procedure as may be prescribed therefor by the Personnel Officer.

#### 2. Eligible List Establishment

- a. The date of the establishment of the eligible list shall be the date fixed by the Personnel Officer and shall be entered on the eligible list. The eligible list shall contain any additions of veteran's credits and, in the case of promotion examinations, seniority credits.
- b. The duration of all eligible lists shall be fixed by the Personnel Officer prior to the establishment of such lists, but shall not be less than one (1) nor more than four (4) years. The date of establishment of a list and its duration shall be given to all successful candidates at the time when notice of standing on the eligible list is given to such candidates. Where the duration of an eligible list is fixed at less than four (4) years the Personnel Officer may, by resolution, prior to the expiration date of such list, extend the duration of the list up to the maximum limitation of four (4) years, provided that eligible candidates on such list are notified in writing of the extension of the eligible list.

#### 3. Public Inspection of Eligible Lists

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

#### 4. Eligible List Error Correction

The Personnel Officer shall have power in his/her discretion to correct any error and amend any eligible list where it appears that an error has been made.

#### 5. Eligible List Revocation

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

## **RULE XI**

### **CERTIFICATION**

1. Appropriate Eligible List Determination/Certification

The Personnel Officer shall determine the eligible list most nearly appropriate for the position to be filled, and shall certify to the appointing authority a sufficient number of eligible candidates from which selection for appointment may be made. When the name of any eligible is included in a certification for appointment, the names of all other eligible candidates on the list having the same final rating as such eligible candidate shall be included in such certification.

2. Duration of Certification

A certified eligible list will have a length of sixty days from the date of certification. If an appointment is not made within the sixty-day time frame the list will be returned to Civil Service, the provisional will be terminated and the position will be left vacant until a new list is certified and an appointment is made. Extensions will not be granted for any list.

3. Failure to Respond to a Canvass Inquiry

When an eligible candidate is canvassed for appointment or is offered appointment in writing and fails to state his/her willingness to accept such appointment within ten (10) business days after the mailing of such canvass or offer, he/she shall be considered ineligible when making selection for such particular appointment. When an eligible candidate fails to respond to a canvass letter, as aforementioned, his/her name shall be restricted from further certification from the eligible list. Thereafter, the eligible candidate may request in writing that his/her name be restored to active status on such list, provided the list is still in existence. The eligible candidate's name may be restored to active status on such list if the Personnel Officer in his/her discretion determines that the reasons for the previous non-response are satisfactory.

4. Certification Declination

The name of the person declining appointment shall be eliminated from further certification from the eligible list unless the declination is for a reason deemed acceptable by the Personnel Officer. The Personnel Officer shall enter upon the eligible list the reasons for his/her action in such cases.

5. Rule of Three

Except as otherwise provided herein, appointment or promotion to a position in the competitive class shall be made by the selection of a person on the most nearly appropriate eligible list who is willing to accept such appointment and whose final rating in the examination is equal to or higher than the final rating of the third highest ranking eligible candidate on the list indicating willingness to accept such appointment. The term "ranking" as used herein refers to the order in which the names of eligible candidates appear on the eligible lists as provided in Rule Ten.

## **RULE XI - CERTIFICATION – CONTINUED**

### 6. Nomination to Fill Vacancy After Open-Competitive Examination

Whenever a vacancy exists in a position in the competitive class and an open-competitive examination duly advertised results in three or fewer approved applicants for the examination, the appointing officer may nominate to the Personnel Officer one of the applicants who may be certified for appointment to fill the vacancy without further examination, provided that he/she has already qualified in an examination of equivalent character within the last four years from the date of nomination.

### 7. Declination for Salary

Whenever one or more eligible candidates shall have declined any appointment offered because of salary and an eligible whose relative standing is lower on the list and who was reachable on the certification only because of the 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 (6) months after his/her appointment beyond that offered to the persons so declining.

### 8. Restriction on Certification for Reclassified Position

An open-competitive, promotion or preferred eligible list shall not be certified for filling a permanent competitive class vacancy created by reclassification of a permanently encumbered competitive class position if the appointment or promotion from such list would require the layoff of a permanent employee; but this provision shall not apply if the incumbent whose position was reclassified has, following such reclassification, either refused to take an examination for such reclassified position or failed to qualify for appointment, examination or promotion to such position.

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

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

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

## **RULE XII**

### **PROMOTIONS**

1. Eligibility for Promotion

In order to be eligible to participate in a promotion examination or to be promoted a candidate must have been employed in a competitive or non-competitive class position on a permanent basis in a lower grade, either in direct line of promotion or in a related or collateral line of promotion as determined by the Personnel Officer. The Personnel Officer shall determine the minimum period of such service for eligibility to enter a promotion examination, and may also prescribe a minimum period of such service as a qualification for promotion from the resulting eligible list.

2. Successive Nominations for Non-Competitive Promotion

Any person who is nominated for non-competitive examination for promotion to a position and who fails to appear for such examination or who fails to pass two successive examinations for such promotion shall not thereafter be eligible for employment in such position, except by appointment or promotion from an eligible list established following competitive examination.

3. Promotion from the Non-Competitive Class

Promotion examinations for non-competitive class employees shall, in addition to the requirements of Civil Service Law, Section 52 (12), require that applicants shall have been employed in a full-time position.

## **RULE XIII**

### **PROBATIONARY TERM**

#### 1. Probationary Term

- a. Except as otherwise provided in these rules, every permanent appointment from an open-competitive list and every permanent appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight (8) nor more than fifty-two weeks (52).
- b. The probationary term for a Trainee position, in which an appointee is required to serve a specified training term, shall be not less than twelve nor more than fifty-two (52) weeks.
- c. The probationary term for Fire Fighter positions shall be not less than twelve (12) weeks nor more than seventy-eight (78) weeks. The probationary term for Police Officer and Deputy Sheriff positions shall be not less than twelve (12) nor more than seventy-eight (78) weeks. Every Police Officer's and Deputy Sheriff's permanent appointment shall not become permanent unless the person served satisfactorily and has satisfied such requirements as may be applicable under Section 209q of the General Municipal Law (Required Training). The probationary term for Correction Officer positions shall be not less than twelve (12) nor more than fifty-two (52) weeks.
- d. Every permanent appointment from a promotion eligible list shall be for a probationary term of not less than eight (8) nor more than twenty-six (26) weeks. Upon written notice of the appointing authority the probationary period upon promotion may be waived and the appointee given a permanent appointment.
- e. An appointment shall become permanent upon the retention of the probationer after his/her completion of the maximum period of probation or upon earlier written notice following completion of the minimum period of probation that his/her probationary term is successfully completed. A copy of such notice shall be sent to the Personnel Officer.
- f. 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 probation, and on or before completion of the maximum period of probation in the manner as prescribed in these rules.

#### 2. a. Transfers to Positions in the Same Civil Division

Every transfer from a position to another in the same civil division shall require a probationary term of not less than a minimum of eight (8) weeks nor more than twenty-six (26) weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at any time after the completion of the minimum period of probation, and on or before the completion of the maximum period of probation.

### **RULE XIII - PROBATIONARY TERM – CONTINUED**

b. Transfers to Positions Under Different Appointing Authorities in Different Civil Divisions

Every transfer from a position in one civil division to a position in another civil division shall require a probationary term of not less than a minimum of eight (8) weeks up to a maximum of twenty-six (26) weeks. If the conduct or performance of the probationer is not satisfactory, employment in such position may be terminated at any time after the completion of the minimum period of probation, and on or before, completion of the maximum period of probation. The Personnel Officer shall advise the prospective transferee in writing prior to approval of the transfer that an eight (8) to twenty-six (26) week probationary term is required and must be successfully completed to obtain permanent status in the position to which transfer is sought. The prospective transferee shall be advised it is his/her responsibility to request a leave of absence from the releasing agency. Unless the prospective transferee obtains a leave of absence, the releasing agency is not required to hold a position to return to should the probationary period not be successfully completed.

c. Waiver

The appointing authority having jurisdiction over the position to which transfer is sought, may elect to waive the probationary term in (2a) or (2b) by written notification to the transferee and the Personnel Officer.

3. Restoration to Permanent Position

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

4. Absence during Probationary Term

Any periods of authorized or unauthorized absence aggregating up to 10 work days during the probationary term, may, in the discretion of the appointing authority, be considered as time served in the probationary term. Any such periods of absence not so considered by the appointing authority as time served in the probationary term, and any periods of absence in excess of periods considered by the appointing authority as time served in the probationary term pursuant to this subdivision shall not be counted as time served in the probationary term. The minimum and maximum periods of the probationary term of any employee shall be extended by the number of work days of his/her absence which, pursuant to this subdivision, are not counted as time served in the probationary term. If absences are not to be counted as time served, the appointing authority shall notify the probationer in writing of this fact prior to the expiration of the probationary period.

### **RULE XIII - PROBATIONARY TERM - CONTINUED**

5. Report on Probationer's Service

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

6. Restoration to Eligible List

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

7. Temporary, Provisional or Contingent Permanent Service in Higher Level Position

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

8. Removal during Probationary Term

Nothing contained in this rule shall be construed to limit or otherwise affect the authority of an appointing authority pursuant to Section 75 of the Civil Service Law, or applicable negotiated disciplinary procedures, at any time during the probationary term, to remove a probationer for incompetency or misconduct.

### **RULE XIII - PROBATIONARY TERM - CONTINUED**

#### 9. Probationary Term Upon Reinstatement

- a. An employee who is reinstated to a position after a separation of more than one (1) year, either in his/her former jurisdiction or in another jurisdiction shall serve a new probationary period in the same manner and subject to the same requirements as apply upon an original appointment to such position as prescribed in these rules.
- b. An employee who is reinstated to a position after a separation of less than one (1) year in an agency other than the one in which he/she formerly served, shall serve a new probationary term in the same manner and subject to the same requirements as apply upon an original appointment to such position as prescribed in these rules.

#### 10. Leave of Absence for Police Supervisors

Notwithstanding any other provision of these rules, if a Police Officer is promoted to a higher rank for which he/she has met all requirements of eligibility for permanent promotion except training requirements applicable under Section 209q of the General Municipal Law, he/she shall be deemed to be on leave of absence from the lower rank position from which he/she was promoted pending completion of such training. During such period, such lower rank position may not be filled except on a temporary or contingent permanent basis. In the event of his/her failure to successfully complete such training within the time allowed therefor, he/she shall be restored to such lower rank position.

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### **RULE XIV**

#### **TRAINEE APPOINTMENTS**

1. The Personnel Officer may require that permanent appointment or promotion to designated positions shall be conditioned upon the satisfactory completion of a term of service as a trainee in such a position or in an appropriate, lower training title or the completion of specified training or academic courses, or both. The period of such term of training service shall be prescribed by the Personnel Officer. Upon the satisfactory completion of such training term, and of specified courses if required, an appointee shall be entitled to full permanent status in the position for which appointment was made. Any appointment as a trainee shall be subject to such probationary period as is prescribed in these rules. The employment of such person may be discontinued if his/her conduct, capacity or fitness is not satisfactory at any time between the minimum and maximum period of probationary term for traineeship. If the trainee fails, refuses to pursue, or does not continue such training or academic courses satisfactorily as may be required, his/her employment may be terminated at any time during the traineeship.

## **RULE XV**

### **EFFECT OF NON-PERMANENT SERVICE ON STATUS OF EMPLOYEES**

#### 1. Effect of Temporary Appointment on eligibility for Permanent Appointment

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

#### 2. Non-Permanent Appointment of Permanent Employee

a. When a permanent employee is given a provisional, temporary or contingent permanent appointment to a competitive class position in the same department or agency, the position thus vacated by him/her shall only be filled on a temporary or contingent permanent basis until the position is unencumbered by the permanent incumbent.

b. A provisional, temporary or contingent permanent appointee may return to his/her permanent position at any time by providing written notice to the appointing authority requesting to be returned to such permanent position. The appointing authority shall return such appointee to his/her permanent position within fifteen (15) days of receipt of such written notice.

#### 3. Successive Provisional Appointment

a. No provisional employee who has refused to take an examination held for permanent appointment shall be given another provisional appointment in a position with the same title. No provisional employee who fails two examinations for permanent appointment shall be eligible for provisional appointment in the same title under the same appointing authority. For the purposes of this rule, a failure to appear for an appropriate examination shall constitute a refusal to take an appropriate examination unless adequate reason for a failure to appear is determined by the Personnel Officer.

b. The term of provisional appointment shall end within the time period prescribed in subdivision 3 of section 65 of the Civil Service Law or upon the receipt of the results of an examination wherein no candidates passed the appropriate examination. A provisional appointee, who fails to qualify in an appropriate examination, may be authorized a second provisional appointment at the discretion of the appointing authority and the Personnel Officer if the eligible list contains less than three eligible candidates from which to make a permanent appointment to the position.

## RULE XV

### **EFFECT OF NON-PERMANENT SERVICE ON STATUS OF EMPLOYEES - CONTINUED**

#### 4. Contingent Permanent Appointments

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

(i) Probationary Period:

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

(ii) Return of Incumbents:

In the event of layoff or the permanent incumbent returns from leave of absence, persons holding positions on a contingent permanent basis shall be displaced before any persons holding permanent status in the same title regardless of total seniority. In the event more than one position in the same title is held by persons having contingent permanent appointments, displacement among those persons shall be made in accordance with layoff procedures as prescribed in Civil Service Law and these rules.

(iii) Preferred List:

Upon displacement, if the contingent permanent appointee was appointed from a promotion eligible list, he/she shall be restored to his/her permanent position and have his/her name placed on a preferred eligible list for certification as a mandatory list only to the department or agency in which the contingent permanent appointment was made. If the contingent permanent appointee was appointed from an open-competitive eligible list, he/she shall have his/her name placed on a preferred eligible list for certification as a mandatory list in the civil division in which the contingent permanent appointment was made.

(iv) Seniority:

When a contingent permanent appointment matures into a permanent appointment, the date of permanent service shall be the date of the original contingent permanent appointment.

## **RULE XV**

### **EFFECT OF NON-PERMANENT SERVICE ON STATUS OF EMPLOYEES - CONTINUED**

- b. All appointments under this rule shall be canvassed as “permanent-contingent permanent.” The canvass letter will direct candidates to the office and departmental website to obtain a copy of this rule.
- c. Appointments to contingent permanent positions shall be made by selection of one of the top three candidates on an appropriate eligible list willing to accept a contingent permanent appointment; there will be no recanvassing of the eligible list in the event the contingent permanent position becomes unencumbered. Acceptance of a contingent permanent appointment will remove the person's name from the eligible list for any future contingent permanent or permanent vacancies within the department or agency in which the contingent permanent appointment was made.
- d. If a permanent vacancy becomes available in the same title in the department or agency in which a contingent permanent appointment has been made, contingent permanent appointees must be offered reassignment, prior to canvassing for a permanent appointment from an appropriate eligible list or prior to appointing a temporary or provisional to the positions.
- e. When a position filled by a contingent permanent appointee becomes unencumbered, the contingent permanent appointee in that position shall immediately gain permanent competitive class status in the class if the required probationary period as prescribed in this rule has been satisfactorily completed.
- f. When a permanent competitive class employee accepts a contingent permanent appointment in the same civil division, the position vacated by such employee shall not be filled except on a temporary or contingent permanent basis until the contingent permanent appointment matures into a permanent appointment.

## **RULE XVI**

### **TRANSFERS**

#### 1. Transfer of eligibility for Permanent Appointment

Upon the written request of an individual and the prospective appointing authority, and subject to the approval of the Personnel Officer, any individual serving in a competitive class position as a permanent appointee may be permanently appointed to another competitive class position subject to these rules without further competitive examination, provided:

- a. There is no preferred list appropriate for filling the position to which appointment is sought containing the name of an eligible willing to accept appointment; and
- b. There is no departmental promotion list for the position to which appointment is sought containing the names of three or more eligibles willing to accept appointment; and
- c.
  - (i) The Personnel Officer determines that the examinations' scopes and qualifications for the positions held and to which appointment is sought are identical; or
  - (ii) When the examinations' scopes and qualifications are not identical, the New York State Department of Civil Service has determined that the examination for the position held involved or would involve essential tests and qualifications the same as or greater than those of the position to which appointment is sought; and
- d. The Personnel Officer has determined that such appointment is for the good of the service.

## **RULE XVII**

### **REINSTATEMENT**

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

All reinstatements are subject to the following terms and conditions:

- a. The prospective appointing authority must request approval from the Personnel Officer to reinstate an individual.
  - b. A reinstatement may not be approved to a position for which a preferred list exists containing the name of an eligible willing to accept appointment.
  - c. With the exception of an employee who is being reinstated to his/her former position within one year from resignation, a reinstatement may not be approved to a position for which a promotion eligible list exists containing the names of three or more eligibles willing to accept appointment.
  - d. The Personnel Officer shall determine if the reinstatement is for the good of the service.
2. Reinstatement following a break in service of more than one year must also satisfy the following additional condition:
    - a. The appointing authority must provide documentation or explanation that demonstrates to the satisfaction of the Personnel Officer that the individual requested to be reinstated possesses current knowledge and skill in the occupational field to which reinstatement is sought.
    - b. If the position to which reinstatement is sought requires successful completion of medical and/or physical agility tests for original appointment, the individual being reinstated must satisfy these criteria immediately prior to reinstatement.

## **RULE XVII – REINSTATEMENT CONTINUED**

3. Refusal or failure to accept reinstatement from preferred list.

- a. Preferred lists shall be established for four years.
- b. Relinquishment of eligibility for reinstatement.

The failure or refusal of a person on a preferred list, after reasonable notice, to accept reinstatement therefrom to his/her former position, or any similar position in the same salary grade for which such list is certified, shall be deemed to be a relinquishment of his/her eligibility for reinstatement, and his/her name shall thereupon be stricken from such preferred list. The name of such person may be restored to such preferred list and certified to fill such appropriate vacancies as may thereafter occur only upon the request of such person and his/her submission of reasons satisfactory to the Personnel Officer for his/her previous failure or refusal to accept reinstatement.

- c. Effect of refusal to accept reinstatement to lower grade position.

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

- d. Restoration to eligibility for reinstatement not to affect previous appointments.

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

4. For the purposes of applying this rule, the following provisions shall apply:

Time spent in active service in the military or naval forces of the United States or of the State of New York, or any time served in another position in the civil service of the same civil division shall not be counted in computing the one (1) year period within which a person may be reinstated after resignation.

## **RULE XVIII**

### **LEAVE OF ABSENCE**

1. Leave of Absence Without Pay

A leave of absence without pay may be granted by the appointing authority in conformance with the regulations or policies established by the appropriate legislative body or appointing authority, provided, however, that a permanent competitive class employee may not encumber a permanent position by a leave without pay while holding a permanent appointment to another position in the civil service of the same civil division.

2. Veterans' Educational Leave

A leave of absence without pay, not to exceed four (4) years, shall be granted by an appointing officer to an employee who is a veteran of the Armed Forces of the United States, providing such a leave of absence is for the purpose of taking courses under the educational benefits provided for in Title 38, United States Code or under a New York State Board of Regents War Service Scholarship, Education Law, Section 614. An employee taking such a leave shall be reinstated to his/her position, provided he/she makes application for such reinstatement within sixty (60) days after the termination of his/her courses of study.

3. An employee holding a position in the competitive class on a permanent basis for at least one (1) year who is appointed to serve in a position which is in the exempt or non-competitive class or in the unclassified service or a Flaherty appointment may at the discretion of the appointing authority be granted a leave of absence without pay during such service for a period not exceeding one (1) year. The Personnel Officer, in his/her discretion, may waive the time limit in cases where it finds such waiver to be in the public interest, provided however, that no such leave of absence shall extend beyond four (4) years from the date the employee left his or her competitive class position.

4. The position of a permanent employee who is granted a leave of absence shall not be filled on other than a contingent permanent or temporary basis.

## **RULE XIX**

### **RESIGNATION**

1. Resignation in Writing

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

2. Effective Date

If no effective date is specified in a resignation, it shall take effect upon delivery to or filing with the appointing official. If an effective date is specified in a resignation, it shall take effect on such specified date. However, if a resignation is submitted while the employee is on leave of absence without pay, such resignation, for the purpose of determining eligibility for reinstatement, shall be deemed to be effective as of the date of the commencement of such absence.

3. Pending Disciplinary Charges

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 or her termination shall be recorded as a dismissal rather than as a resignation.

4. Withdrawal or Amendment

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

5. Voluntary Demotion of Permanent Competitive Employees

An employee, who voluntarily elects to relinquish his/her permanent competitive class status to a position and accept a demotion, must deliver a statement of relinquishment to the appointing authority. Upon receipt of the statement of relinquishment by the appointing authority, the employee may be reinstated to any vacant lower salary position for which he/she is eligible for such reinstatement as provided in these rules. Such statement of relinquishment shall not take effect until after Personnel Officer review and the employee is reinstated to the lower level position. An employee may not be reinstated to a position for which a preferred eligible list is established.

## **RULE XX**

### **REPORTS OF APPOINTING OFFICERS**

For the purpose of certification of payrolls and to enable the Personnel Officer to keep an official roster of the classified service as required by law and to properly administer the provisions of the Civil Service Law and these Rules, each appointing officer, from time to time, and upon the date of the official action in each case, shall report to the Personnel Officer as follows:

- a. Every appointment or employment whether permanent, probationary, provisional, temporary, contingent permanent, or otherwise, in the classified service, with the date of commencement of service and the title, salary, and compensation of the position.
- b. Every declination of an appointment under him/her by a person on an eligible list or preferred list, with copies of the offer or notice of appointment and the reply, if any.
- c. Every discharge during or at the end of probationary term with the date thereof.
- d. Every vacancy in a position, for whatever reason with the date thereof.
- e. Every position abolished, with the date of such abolishment.
- 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 proposed transfer, giving the positions from which and to which transfer is to be made, including the effective date and salary.
- i. Every reinstatement in a position, with the date and salary thereof.
- j. Every leave of absence, with the date and duration thereof.
- k. Every new position, giving a complete description of the duties and responsibilities.
- l. Every change of address or name.
- m. Every probationary report indicating the completion of a probationary term, including the completion date.

**RULE XXI**

**CERTIFICATION OF PAYROLLS**

1. Certification required prior to payment
  - a. No person shall receive salary or compensation until the Personnel Officer has certified his or her employment to be in compliance with the provisions of the Civil Service Law and these Rules.
  - b. The Personnel Officer shall not certify the name of any person employed in a manner that does not comply with the provisions of the Civil Service Law and these Rules.

2. Extended certification
  - a. The Personnel Officer may certify the employment of a person for a limited or extended period. No further certification shall be necessary for the payment of salary or compensation to such person as long as his or her status, title, and salary grade remain unchanged during the period of the certification granted.
  - b. The Personnel Officer shall require certification of the full payroll of every civil division under its jurisdiction at least once every fiscal year, and shall require such certifications according to the following schedule:

<b><u>Civil Division</u></b>	<b><u>Payroll(s) to be Certified:</u></b>
County	First Full Payroll in January
Cities	First Full Payroll in February
Towns	First Full Payroll in March
Villages	First Full Payroll in May
All Other Agencies Or Special Districts	First Full Payroll in June
Community Colleges	First Full Payroll in September
School Districts	First Full Payroll in October

- c. The Personnel Officer may, at any time, require any civil division under its jurisdiction to submit payrolls or accounts for certification in accordance with §100(1) of the Civil Service Law.
    - d. Annual certifications provided by the Personnel Officer shall be valid for a period of no more than twelve (12) months following the scheduled date of certification established in these Rules. Certifications provided at any other time during the year shall be valid for a period not to exceed the next scheduled certification established in these Rules.

**RULE XXI - CERTIFICATION OF PAYROLLS - CONTINUED**

3. Refusal or termination of certification
  - a. The Personnel Officer shall investigate any discrepancies between the payroll and the official roster and any other instances where the Personnel Officer finds the employment of a person may be in violation of the law and these Rules.
  - b. In any case where the Personnel Officer finds satisfactory evidence that the employment of a person is in violation of law and these Rules, or the Personnel Officer finds satisfactory evidence of intent to evade the provisions of law or these Rules in regard to the employment of any person, the Personnel Officer shall refuse certification of the person and terminate any certification of the person previously made and then in force.
  - c. Any refusal, termination, or revocation of a certification of any person shall be communicated in writing to the appropriate fiscal or disbursing officer.

## **RULE XXII**

### **POSITION CLASSIFICATION**

1. Definitions - For the purpose of this Rule the following definitions shall apply:
  - a. CLASS - means one or more positions sufficiently similar with respect to duties and responsibilities to be designated by a single descriptive title and treated as a unit for the purpose of recruiting, examinations, salary and administering other personnel functions.
  - b. CLASS TITLE - means the designation given under these rules to a class and to each position allocated to such class.
  - c. JOB CLASSIFICATION SPECIFICATION - means a formal written statement of the class which defines the general character and scope of the duties and responsibilities of positions in the class, lists typical work activities, enumerates, knowledges, skills, abilities and personal characteristics required for successful full performance of the work, states required minimum qualifications and indicates any special requirement of the class.
  - d. ALLOCATION - means the assignment of a position to an appropriate class as determined by the duties, responsibilities and minimum qualification requirements of the position.
  - e. RECLASSIFICATION - means the reallocation of a position from one class to another because of a permanent and material change of the duties of that position.
  - f. APPOINTING AUTHORITY - means the person, body or authority authorized to make appointments within a department or civil division.
2. Powers and Duties - The Personnel Officer shall have power and duty to:
  - a. Classify and reclassify all positions in the Civil Service of all civil divisions under its jurisdiction.
  - b. Prepare and maintain job classification specifications for each class of positions in the competitive, non-competitive and labor jurisdictional classes and establish appropriate minimum qualifications for each class.
  - c. Investigate all matters affecting the classification and reclassification of all positions and from time to time review the duties, responsibilities and qualification requirements of all positions under its jurisdiction and to make revisions in the classification of positions.

## **RULE XXII - POSITION CLASSIFICATION – CONTINUED**

### 3. Classification of Vacant Positions

When a position has or is about to become vacant, the appointing authority shall file a detailed description of the duties and responsibilities of the position and a statement of suggested minimum entrance qualifications for the position with the Personnel Officer. After an analysis of the detailed description of duties and responsibilities, the Personnel Officer shall allocate the position to an appropriate class, or, if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications. The Personnel Officer may, with certain position vacancies he/she deems appropriate, accept written verification from the appointing authority that the duties and responsibilities of certain positions have remained unchanged from the last review by the Personnel Officer.

### 4. Classification of New Positions

When a new position is to be created, the appointing officer shall file a detailed description of the duties and responsibilities of the position and a statement of suggested minimum entrance qualifications for the position with the Personnel Officer, prior to creating the position. After an analysis of the detailed description of duties and responsibilities, the Personnel Officer shall allocate the position to an appropriate class, or if no appropriate class exists, shall create a new class and prepare a job classification specification for such new class including a statement of appropriate minimum qualifications.

### 5. Reclassification of Positions - Either:

- a. The Personnel Officer may, upon his/her own initiative, review the duties and responsibilities and qualification requirements of any position under his/her jurisdiction. Appointing authorities and employees in positions under review shall be required to complete a detailed description of the duties and responsibilities of the positions and provide such other information as determined necessary by the Personnel Officer. After an analysis of the detailed description of the duties and responsibilities, the Personnel Officer shall allocate the position to an appropriate class, or if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications; or
- b. Whenever a permanent and material change is made in the duties and responsibilities of any position, the appointing authority shall file a detailed description of the duties and responsibilities of the position with the Personnel Officer. After an analysis of the duties and responsibilities of the position, the Personnel Officer shall allocate the position to an appropriate class, or if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications; or

## **RULE XXII - POSITION CLASSIFICATION – CONTINUED**

- c. Any employee in the classified service may apply to the Personnel Officer for a position reclassification. Such application shall include a detailed description of the duties and responsibilities of the position since the last determination with respect to its classification. After an analysis of the duties and responsibilities of the position, the Personnel Officer shall allocate the position to an appropriate class, or if no appropriate class exists, shall create a new class and prepare a job classification specification for such position including a statement of appropriate minimum qualifications.

### 6. Notice and Appeals

The Personnel Officer shall give reasonable notice of any proposal or application for a change in classification to the appointing authority and to the employee or employees affected thereby. Any person desiring to submit facts orally or in writing in connection with the reclassification of any position shall be afforded reasonable opportunity to do so. The Personnel Officer shall then determine the proper allocation of the position. No employee, either by classification or reclassification, change of title or otherwise shall be promoted, demoted, transferred, suspended or reinstated except in accordance with the provisions of the Civil Service Law and these rules

## **RULE XXIII**

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

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

## RULE XXIV

### 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, city, town, village, each school district and each special district. Authorities and community colleges shall be deemed to be separate civil divisions.
  - d. Satisfactory Service shall mean service in the last fiscal year by an employee during which he/she did not receive an "Unsatisfactory" performance rating and was not found guilty of misconduct or incompetency pursuant to Section 75 of the Civil Service Law or negotiated disciplinary procedure 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 (1) month, or
    - (iii) demotion in grade or title.
  - e. Permanent Service
    - (i) Original Appointment

Permanent service shall start on the date of the incumbent's original appointment on a permanent or contingent permanent basis in the classified service; however, in the case of disabled veterans, the date of original permanent appointment is considered to be sixty (60) months earlier than the actual date, while non-disabled veterans are considered to have been appointed thirty (30) months earlier than their actual date of appointment. For the 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) Resignation Followed by a Reinstatement or Reappointment

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

## **RULE XXIV - LAYOFF OF COMPETITIVE CLASS EMPLOYEES – CONTINUED**

(iii) Temporary or Provisional Service

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

(iv) Seniority of Transferred Employees

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

(v) Seniority Date When Covered-In

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

2. Suspension

- a. When an occupied position in the competitive class is abolished, suspension is to be made from among those employees holding the same title in the same layoff unit as the abolished position.
- b. Among permanent employees, the order of suspension is the inverse of the order of their original permanent appointments in the classified service. See above definition of permanent service for veterans and disabled veterans. An exception to this rule is that the blind have absolute retention rights but only in their job status.
- c. A blind person may not backdate his/her permanent service if he/she also happens to be either a veteran or disabled veteran. A person is considered blind if he/she is so certified by the Commission for the Blind and Visually Handicapped of the New York State Office of Children and Family Services.
- d. When two or more permanent incumbents of positions in a specific title are suspended, demoted or displaced at the same time, the order in which they shall be entitled to displace shall be determined by their respective retention standing, with those having the greater retention standing entitled to displace first.
- e. When several employees were originally appointed on a permanent basis from the same eligible list on the same day, their retention rights shall be determined by their rank on that eligible list, that person having the highest rank having greater retention rights over those having lower ranks.

## **RULE XXIV - LAYOFF OF COMPETITIVE CLASS EMPLOYEES – CONTINUED**

- f. All temporary, provisional and contingent permanent employees occupying these positions must be let go before any permanent employee is suspended from such position.
  - g. Probationary employees occupying such positions in the same title, must also be suspended before any permanent employee in the layoff unit in that title who has completed his/her probationary period. Probationary employees do, however, have superior retention rights to those of contingent permanent, temporary and provisional employees.
  - h. The order of suspension among probationary employees shall follow the same principles as that among permanent employees.
  - i. Where the layoff involves more than one position in a title, the order of displacement will be the inverse of the order of suspension. That is, the most senior of the suspended employees will be the first to displace. This shall apply to both vertical bumping and retreat.
3. Vertical Bumping
- a. Vertical bumping occurs when an employee in a specific title to which there is a direct line of promotion, who is himself/herself suspended or displaced, displaces an employee in the next lower occupied title in direct line of promotion in the same layoff unit having the least seniority if the employee who seeks to displace has greater retention.
  - b. If an employee refuses to displace a junior incumbent he/she must be laid off. This, however, does not protect the junior incumbent from being compared in retention standing with other incumbents if other positions at the higher level are being abolished.
  - c. When a next lower title has been occupied by means of displacement regardless of when the displacement into the title has occurred, it is considered to be occupied for further displacement purposes; however, a next lower title which has all of its positions abolished at the same time as positions are abolished at the higher level cannot be considered as occupied. A title, which is occupied by an incumbent, temporary, provisional, contingent permanent, probationary or permanent is considered occupied for the purposes of this section.

**RULE XXIV - LAYOFF OF COMPETITIVE CLASS EMPLOYEES – CONTINUED**

4. Retreat
  - a. Retreat occurs when and only when there is no lower occupied position in direct line of promotion at any level.
  - b. An employee may retreat by displacing the incumbent with the least retention right who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in the title from which he/she is currently suspended or displaced. Retreat may only occur where the position in the title formerly held by the displacing incumbent is occupied in the 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/she 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/she last served on a permanent basis although he/she had intervening service in other titles as long as his/her service in each of the intervening titles was on other than a permanent basis. He/she may also displace by retreat to a position which does not count in the computation of his/her continuous service.
  - e. Where a title change has been 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. An appointing authority may take such steps as it may deem necessary in order to secure binding written commitments in advance of suspension, demotion or displacement from employees potentially affected by such suspension, demotion or displacement as to their willingness to accept reassignment or displacement.

# ***Niagara County Appendices - Updated June 17, 2010***

## ***Appendix - A Exempt***

### **County Service**

07/17/2006	Administrative Assistant – County Manager
09/09/2008	Assigned Counsel and Conflict Administrator
05/19/2003	Assistant District Attorney (24)
09/09/2008	Confidential Secretary – County Clerk
09/04/1984	Confidential Secretary to County Attorney
01/23/1979	Confidential Secretary to County Treasurer
12/17/2001	Confidential Secretary to District Attorney
01/28/1997	Confidential Secretary to Sheriff
	County Attorney
05/19/2003	County Manager
07/17/2006	Deputy Commissioner of Economic Development
12/17/2001	Deputy County Clerk (3)
06/17/2010	Deputy District Attorney - DWI
06/17/2010	Deputy District Attorney – General Crimes
06/17/2010	Deputy District Attorney – Grand Jury
12/17/2001	Director Office of Management and Budget
	First Deputy County Clerk
	First Deputy County Treasurer
	Undersheriff

### **Niagara County Soil & Water District**

03/28/2002	Soil & Water District Secretary
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### **North Tonawanda City Schools**

04/23/2001	School Auditor
04/23/2001	Secretary to School Superintendent

### **North Tonawanda, City of**

04/23/2001	Administrative Assistant to the Mayor
12/17/2001	Assistant City Attorney (2)
05/19/2003	Confidential Secretary to the Mayor
12/17/2001	Director of Emergency Services

### **School Service**

	Census Taker
11/14/1989	Internal Claims Auditor
	School Attorney
	School District Clerk
	School District Treasurer
	School Tax Collector

# *Niagara County Appendices - Updated June 17, 2010*

## *Appendix - A Exempt*

### School Service - Newfane Central School District

05/19/2003 Secretary to the School Superintendent

### School Service – Niagara Wheatfield

09/09/2008 Secretary to the School Superintendent

### School Service – Royalton-Hartland Central School

09/09/2008 Secretary to the School Superintendent

### Town Service

Budget Officer

04/23/1985 Confidential Secretary to the Supervisor

01/23/1979 Deputy Receiver of Taxes & Assessments (When appointed by elected Receiver)

Deputy Superintendent of Highways

Deputy Supervisor

Deputy Tax Collector - Second Class Towns

Dog Enumerators

09/04/1984 Secretary - All Boards authorized by law to appoint Secretaries

Town Attorney

11/14/1989 Town Prosecuting Attorney

### Town Service - Town of Cambria

09/09/2008 Deputy Town Clerk (2)

09/09/2008 Justice Clerk (2)

### Town Service - Town of Hartland

09/09/2008 Deputy Town Clerk (3)

09/09/2008 Justice Clerk (2)

### Town Service - Town of Lewiston

05/19/2003 Deputy Receiver of Taxes and Assessments (2)

09/09/2008 Deputy Town Attorney

09/09/2008 Deputy Town Clerk (3)

06/17/2010 Director of Finance

09/09/2008 Justice Clerk (2)

### Town Service - Town of Lockport

09/09/2008 Deputy Town Clerk (2)

06/17/2010 Director of Finance

09/09/2008 Justice Clerk (2)

### Town Service - Town of Newfane

09/09/2008 Deputy Receiver of Taxes and Assessments

06/17/2010 Deputy Town Clerk (2)

09/09/2008 Justice Clerk (2)

*# - Confidential/Policy Influencing; Exempt from Section 75  
@ - Civil Divisions with less than 5,000 population*

# ***Niagara County Appendices - Updated June 17, 2010***

## ***Appendix - A Exempt***

### **Town Service - Town of Niagara**

09/09/2008 Deputy Town Clerk (2)  
09/09/2008 Justice Clerk (2)  
05/19/2003 Town Manager

### **Town Service - Town of Pendleton**

09/09/2008 Deputy Town Clerk (3)  
09/09/2008 Justice Clerk (2)

### **Town Service - Town of Porter**

09/09/2008 Deputy Town Clerk (1)  
09/09/2008 Justice Clerk (2)

### **Town Service - Town of Royalton**

09/09/2008 Deputy Town Clerk (3)  
09/09/2008 Justice Clerk (2)

### **Town Service - Town of Somerset**

09/09/2008 Justice Clerk (1)

### **Town Service - Town of Wheatfield**

09/09/2008 Deputy Town Clerk (3)  
06/17/2010 Director of Finance  
09/09/2008 Justice Clerk (2)

### **Town Service - Town of Wilson**

09/09/2008 Deputy Town Clerk (3)  
09/09/2008 Justice Clerk (2)

### **Village Service**

Deputy Village Clerk  
09/04/1984 Deputy Village Clerk - Treasurer  
Dog Enumerators  
Village Attorney  
Village Treasurer

### **Village Service – Village of Lewiston**

09/09/2008 Deputy Treasurer

### **Village Service – Village of Middleport**

09/09/2008 Village Coordinator

# *Niagara County Appendices - Updated June 17, 2010*

## *Appendix - B Non-competitive*

### All Civil Divisions

09/04/1984	Aging Services Aides
	Assessors - In Civil Divisions with less than 5,000 population
	Assistant Cooks
	Assistant Recreation Director p/t
	Automotive Mechanics
11/14/1989	Building Maintenance Persons
	Bus Drivers
	Carpenters
	Chief Lifeguards (seasonal)
	Clerks p/t
	Cooks
09/04/1984	Custodians p/t
09/04/1984	Dog Control Officers
01/23/1979	Electricians
09/04/1984	Food Services Helpers II
11/14/1989	General Repair Persons
01/23/1979	Groundskeepers - Buildings
09/04/1984	Groundskeepers - Parks
09/04/1984	Groundspersons
09/04/1984	Head Bus Drivers
	Head Cleaners - (days)
	Head Cleaners - (evenings)
11/14/1989	Head Groundspersons
11/14/1989	Head Maintenance Persons
	Heavy Equipment Operators
09/04/1984	Kitchen Attendants
09/04/1984	Laboratory Helpers
05/19/2003	Laborers (DL)
09/04/1984	Laundry Workers
09/04/1984	Library Pages
	Licensed Practical Nurses
07/17/2006	Lifeguards
	Motor Equipment Operators
	Painters
09/04/1984	Recreation Aides part-time/seasonal
01/23/1979	Recreation Directors part-time/seasonal
11/14/1989	Recreation Leaders

# Niagara County Appendices - Updated June 17, 2010

## Appendix - B Non-competitive

### All Civil Divisions

	Registered Professional Nurses
	School Crossing Guards p/t
07/17/2006	Section 55-a (Designated positions in titles where the incumbent is certified either by the Commission for the Blind and Visually Handicapped in the New York State Department of Social Services as being physically disabled by blindness or by the New York State Office of Vocational and Educational Services for individuals with Disabilities.)
11/14/1989	Senior Citizens Leaders p/t
09/04/1984	Senior Community Service Aides
09/04/1984	Senior Sign Shop Maintenance Workers
09/04/1984	Sign Shop Maintenance Workers
	Stenographers p/t
	Stenographic Secretaries p/t
11/14/1989	Swimming Instructors PT
	Truck Drivers
	Typists p/t
12/17/2001	Van Drivers
12/17/2001	Wastewater Maintenance Persons
12/17/2001	Wastewater Maintenance Persons II
12/17/2001	Water & Wastewater Maintenance Persons
12/17/2001	Water & Wastewater Maintenance Persons II
11/14/1989	Water Maintenance Persons
11/14/1989	Water Maintenance Persons II

### County Service

02/08/2010	Administrative Director County Sewer District (#)
	Administrative Director - County Water District (#)
	Assistant County Attorney (6) (#)
09/09/2008	Assistant Public Defenders (#)
11/14/1989	Assistant Social Services Attorneys p/t (#)
11/14/1989	Building Attendants
05/19/2003	Chief Deputy (2) #
07/17/2006	Commissary Aide
	Commissioner of Social Services (#)
12/17/2001	Community Services Aides
06/17/2010	Confidential Assistant – Commissioner of Economic Development (#)
06/17/2010	Confidential Assistant – County Attorney (#)
06/17/2010	Confidential Assistant – Director of Risk and Insurance Services (#)
09/09/2008	Confidential Secretary – Assigned Counsel & Conflict Administrator (#)

# Niagara County Appendices - Updated June 17, 2010

## Appendix - B Non-competitive

### County Service

09/04/1984	Confidential Secretary -Commissioner of Social Services (#)
09/09/2008	Confidential Secretary - Director of Human Resources (#)
09/09/2008	Conflict Attorneys (#)
11/14/1989	Coordinator, STOP DWI County Historian p/t
01/28/1997	Crime Victim Advocates Criminal Investigator for District Attorney (#)
01/23/1979	Deputy Commissioner of Public Works (Engineering) (#)
09/04/1984	Deputy Commissioner of Social Services (#)
09/09/2008	Deputy County Historian p/t (2)
09/04/1984	Deputy Fire Coordinator p/t (6)
09/04/1984	Director of Central Data Processing (#) Director of Community Mental Health Services (#)
06/17/2010	Director of Homeland Security and Emergency Management (#)
03/28/2002	Director of Human Resources (#)
01/23/1979	Director of Real Property Tax Services III (#)
07/17/2006	Director of Risk and Insurance Services (#) Director of Veterans Service Agency (#)
12/17/2001	Director, Office for the Aging (#)
11/14/1989	Employment & Training Program Director I (#)
11/14/1989	Energy Assistance Workers p/t
01/23/1979	First Assistant County Attorney (#)
06/17/2010	Forensic Criminalists
03/28/2002	Golf Director
12/17/2001	Graphic Artist
02/28/2002	Greenskeeper Groundskeepers II Groundskeepers III
03/28/2002	Head Cooks
01/23/1979	Head Van Driver
12/17/2001	Heavy Equipment Operator II Heavy Equipment Operators (Refuse Disposal District)
12/17/2001	Helicopter Pilots
01/23/1979	Home Management Workers
12/17/2001	Laborers (Highway)

# ***Niagara County Appendices - Updated June 17, 2010***

## ***Appendix - B Non-competitive***

### **County Service**

06/17/2010	Licensed Practical Nurses – Mental Health
07/17/2006	Masonry Workers
12/17/2001	Motor Vehicle Representatives p/t
01/23/1979	Nutrition Services Assistants p/t
03/28/2002	Personnel Officer (#)
11/14/1989	Public Health Director (#)
06/17/2010	Public Information Officer (#)
7/17/2006	Registered Professional Nurses – Jail
06/17/2010	Registered Professional Nurses – Mental Health
11/14/1989	Registered Professional Nurses (Health Dept.)
11/14/1989	Security Equipment Technician
06/17/2010	Senior Forensic Criminalists
11/14/1989	Senior Safety and Security Coordinator
	Service Officer, Veterans Service Agency
12/17/2001	Sheriff Work Program Assistant Crew Leaders
11/14/1989	Sheriff Work Program Crew Leader
06/17/2010	Special Assistant for Medicaid Provider Fraud (#)
03/28/2002	Speech Clinic Aides
01/23/1979	Speech Pathologists p/t
11/14/1989	Summer Youth Employment Counselors
11/14/1989	Watchpersons - Buildings
12/17/2001	Work Relief Program Crew Leaders
09/04/1984	Work Relief Program Supervisor
	Youth Bureau Director (#)

### **Niagara County Community College**

12/17/2001	Building Maintenance Persons II
05/19/2003	Campus Security Officers p/t

### **North Tonawanda City Schools**

12/17/2001	Building Maintenance Helpers
12/17/2001	Child Care Associates
12/17/2001	Child Care Workers
04/23/2001	Head Groundskeepers
12/17/2001	School Bus Attendants
04/23/2001	School Bus Drivers
09/09/2008	Sign Language Interpreters

# *Niagara County Appendices - Updated June 17, 2010*

## North Tonawanda, City of

05/19/2003	Assistant Director of Emergency Services p/t (3)
05/19/2003	Building Maintenance Worker
09/09/2008	Chief Lifeguards
09/09/2008	City Historian p/t
09/09/2008	Community Development Director (#)
04/23/2001	Crossing Guard Supervisor
04/23/2001	Deputy Registrar of Vital Statistics p/t
12/17/2001	Detention Aides
12/17/2001	Engineering Technicians p/t
12/17/2001	Equipment Mechanic Helpers
04/23/2001	Fire Equipment Mechanic
04/23/2001	Golf Equipment Mechanic
04/23/2001	Groundskeepers
04/23/2001	Heavy Equipment Mechanics
04/23/2001	Microfilm Operator p/t
04/23/2001	Municipal Bingo Inspectors p/t
04/23/2001	Ordinance Enforcement Officer p/t
04/23/2001	Park Equipment Mechanic
04/23/2001	Park Supervisors (seasonal)
04/23/2001	Recreation Program Supervisors (seasonal or p/t)
04/23/2001	Road Maintenance Mechanic
04/23/2001	Senior Water Maintenance Workers
04/23/2001	Sub-Registrars of Vital Statistics p/t
04/23/2001	Tire Repair Worker
05/19/2003	Traffic Maintenance Workers
06/17/2010	Tree Trimmer Helpers
04/23/2001	Tree Trimmers
06/17/2010	Wastewater Maintenance Helpers
05/19/2003	Wastewater Maintenance Workers
04/23/2001	Wastewater Treatment Plant Attendants
04/23/2001	Watchpersons
04/23/2001	Water Equipment Mechanic
04/23/2001	Water Maintenance Workers
04/23/2001	Water Plant Mechanics

# ***Niagara County Appendices - Updated June 17, 2010***

## ***Appendix - B Non-competitive***

### **North Tonawanda Public Library**

04/23/2001 Library Clerk Typists p/t

12/17/2001 Senior Pages

### **School Service**

12/17/2001 Building Maintenance Person II

01/23/1979 Bus Driver - Trainees

Cook-Managers

12/17/2001 Groundsperson/Automotive Mechanics

11/14/1989 Media Associate

12/17/2001 Personal Care Aides

Plumbers

12/17/2001 School Health Care Aides

School Nurses

Teacher Aides

### **School Service – Barker Central School**

06/17/2010 Sign Language Interpreters

### **School Service – Newfane Central School District**

09/09/2008 Chief Lifeguards

### **School Service – Niagara Wheatfield**

06/17/2010 Automotive Mechanic - Laborers

09/09/2008 Director of Human Resources (#)

07/17/2006 Home-School Coordinator

09/09/2008 Lead Automotive Mechanic

07/17/2006 Micro Computer Student Interns – Two (2) Years Only

### **School Service - Royalton-Hartland Central School**

05/19/2003 Senior Library Clerks p/t

06/17/2010 Sign Language Interpreters

# Niagara County Appendices - Updated June 17, 2010

## Appendix – B Non-competitive

### Town Service

11/14/1989	Assessor
	Bingo Inspectors p/t
	Building Inspectors p/t
11/14/1989	Civil Enforcement Officers p/t
	Constables p/t
	Deputy Registrar of Vital Statistics p/t
	Deputy Superintendent of Water & Sewer Maintenance p/t
	Deputy Town Historian p/t
	Fire Inspector p/t
05/19/2003	Motor Equipment Operators II
	Plumbing Inspector p/t
	Police Chief p/t
12/17/2001	Police Officers p/t
	Police Sergeants p/t
	Registrar of Vital Statistics p/t
	Superintendent of Water & Sewer Maintenance p/t
	Town Historian p/t
12/17/2001	Wastewater Treatment Plant Operators Type "B" Plant - With population less than 5,000
12/17/2001	Wastewater Treatment Plant Operators Type "C" Plant - With population less than 5,000
	Water Superintendent - With population less than 5,000
01/23/1979	Zoning Officer p/t - Towns of Hartland, Royalton, and Somerset

### Town Service - Town of Lockport

06/17/2010 Coordinator of Economic Development (#)

### Town Service - Town of Somerset @

07/17/2006	Laboratory Director - Wastewater
09/09/2008	Nutrition Services Assistants
05/19/2003	Superintendent of Water and Wastewater Maintenance

# ***Niagara County Appendices - Updated June 17, 2010***

## ***Appendix - B Non-competitive***

### **Village Service**

	Building Inspector p/t
12/17/2001	Civil Enforcement Officer - With population less than 5,000
	Deputy Public Works Superintendent - With population less than 5,000
09/04/1984	Deputy Registrar of Vital Statistics p/t
	Deputy Superintendent of Water & Sewer Maintenance p/t
	Fire Inspector p/t
	Police Chief p/t
12/17/2001	Police Officers p/t
	Police Sergeant p/t
	Registrar of Vital Statistics p/t
	Superintendent of Public Works - With population less than 5,000
	Superintendent of Water & Sewer Maintenance p/t
	Village Historian p/t
12/17/2001	Wastewater Treatment Plant Operators Type "B" Plant - With population less than 5,000
12/17/2001	Wastewater Treatment Plant Operators Type "C" Plant - With population less than 5,000
12/17/2001	Zoning Officer p/t - With population less than 5,000

### **Village Service – Village of Lewiston @**

07/17/2006 Bingo Inspector part-time

### **Village Service – Village of Middleport @**

09/09/2008 Wastewater Treatment Plant Operator/Public Works Maintenance Persons  
09/09/2008 Wastewater Treatment Plant Operator/Public Works Maintenance Persons – Trainee

### **Village Service – Village of Youngstown @**

09/09/2008 Motor Equipment Operators II

# *Niagara County Appendices - Updated June 17, 2010*

## *Appendix - C Labor*

### All Civil Divisions

Cleaners  
Food Service Helpers  
Laborers  
11/14/1989 Seasonal Help – Clerical  
11/14/1989 Seasonal Help - Labor

### County Service

09/09/2008 Dishwashers  
11/14/1989 Land Fill Attendant

### North Tonawanda, City of

04/23/2001 Sanitation Workers

### School Service

Bus Attendants  
07/17/2006 Food Service Helper - Monitors  
06/17/2010 School Monitor – Cleaners  
School Monitors  
Student Workers

### Town Service

05/19/2003 Court Attendants

# *Niagara County Appendices - Updated June 17, 2010*

## *Appendix - D      Unclassified*

### All Civil Divisions

All Elected Officials

All members of Commissions & Boards, which the governing municipal body has been granted authorization by law to create and appoint.

09/04/1984

Members of Assessment Review Board

Members of Board of Appeals

Members of Fire Commission

Members of Planning Board

Members of Public Vehicle Board

Members of Zoning Board

### All School Districts and Community College

All positions certified by the Commissioner of Education of the State of New York, in accordance with Section 35g and 35j of the State Civil Service Law.

All positions in the Community College as certified by the Board of Trustees and approved by the Chancellor of the State University in accordance with Section 35i of the Civil Service Law.

### County Service

All members, officers & employees of the Board of Elections

06/17/2010

Assistant Clerk to the Legislature (2)

Clerk of the County Legislators

07/17/2006

Commissioner of Economic Development

01/23/1979

Commissioner of Public Works

01/23/1979

County Auditor

Public Defender

### North Tonawanda, City of

04/23/2001

City Engineer

### School Service

School Business Administrator

Teaching Assistants

### Town Service

Receiver of Taxes & Assessments - Town of Newfane

Town Tax Collector - Second Class Towns

### Village Service

Clerk - Treasurer

Village Clerk