



*The Basics of
New York State
Civil Service Law
102*

2021 CSEA VIRTUAL DELEGATE MEETING
September 29, 2021
11:00 am

Presented by:
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Deputy Director for Contract Administration / Research



Part 2 - Workshop Agenda

- **Competitive Examination Process**
- **Eligible List Certification & Appointments**
- **Probation**
- **Personnel Actions**
 - **Reassignments**
 - **Transfers**
 - **Leaves of Absence**

Competitive Examination Process

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Article V Section 6 New York State Constitution

“Appointments & Promotions in the civil service of the State and all civil divisions ... 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...”

New York State Executive Branch Employees Only

- **New York State Civil Service Department**
 - **New York State Employees Career Mobility Office**
 - Telephone:
 - (518) 485-6199 OR 1-800-553-1322
- **E-mail:**
 - cmo@cs.ny.gov

Recruitment (Sec. 50)

By Competitive Examination

- **NYS Division of Testing Services**
 - ✓ Determines need for an examination
 - ✓ **Prepares general announcements**
 - ✓ Sets min qualifications for exams
 - ✓ **Sets dates, times and exam sites**
 - ✓ Creates exam questions
 - ✓ **Sets exam eligibility rules**

Open Competitive Exams (Sec. 51)

- **Agency request**
- **Civil Service determination required**
- **Centralized vs. Decentralized Exams**
- **Open to all qualified candidates**
- **Residency requirements (& waivers)**
- **Continuous recruitment (Sec. 57)**

Promotion Examinations (Sec. 52)

- Used for filling second level positions
- Preferred method of filling positions
- Open to current employees only:
 - ✓ Preferred List Eligibles
 - ✓ 55a & 55b employees
 - ✓ Non-competitive Class employees (sometimes)
 - ✓ Labor Class employees (sometimes)
 - ✓ Vietnam Era Veterans (52.13b)

Non-Competitive Examinations (Sec. 52.7)

- Less than 3 applicants
 - **Less than 3 eligibles for examination**
-

- ① - Appointing officer nominates an individual who, upon passing an exam for the position, shall be promoted.
- ② - No exam required if candidate has previously passed a similar exam.

Special Exceptions

- 55a & 55b employees
- Preferred list eligibles
- Transferees
- Reassignments
- Reinstatements
- Part Time Comp Class Positions

Eligible List Cert & Appointments

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Eligible list Certification (Sect. 60)

- Promotion:

- ✓ Current employees only
 - In direct line of promotion or collateral lines
- ✓ By Department First
- ✓ Then by employer

- Open Competitive:

- ✓ Residents first
- ✓ Then by all other qualified candidates

Eligible List Certification

(con't)

- **Rule of Three**
- **Rule of Ten**
- **Rule of List**
- **Band (Zone) Scoring**
 - **First used in mid 1980's**
 - **CSEA Lawsuit 1986**
 - **(McGowan vs. Burstein)**
 - **Court of Appeals Decision June 2, 1988**

Traditional Eligible list

- 100 - 2 candidates
- 97 - 5 candidates

- 96 - 25 candidates
- 95 - 30 candidates
- 93 - 103 candidates
- 91 - 20 candidates
- 90 - 235 candidates
- 88 - 164 candidates

Band (Zone) Scoring

•	96 - 100	100	Band # 1
•	91 - 95	95	Band # 2
•	86 - 90	90	Band # 3
•	81 - 85	85	Band # 4
•	76 - 80	80	Band # 5
•	71 - 75	75	Band # 6
	70	70	Band # 7

Traditional Vs. Band Scoring Method

- 100 - 2 candidates
- 97 - 5 candidates

- 96 - 25 candidates
- 95 - 30 candidates
- 93 - 103 candidates
- 91 - 20 candidates
- 90 - 235 candidates
- 88 - 164 candidates

- Band # 1
- 96-100 - 32 Candidates

- Band # 2
- 91-95 - 153 Candidates

- Band # 3
- 86-90 - 399 Candidates

Traditional Vs. Band Scoring Method

- 97 - 1 candidate
- 91 - 1 candidate
- 88 - 25 candidates
- 84 - 30 candidates
- 81 - 103 candidates
- 77 - 20 candidates

- Band #1
- 96-100 - 1 Candidate
- Band # 2
- 91-95 - 1 Candidate
- Band # 3
- 86-90 - 25 Candidates
- Band # 4
- 81-85 - 133 Candidates
- Band # 5
- 76-80 - 20 Candidates

Eligible List Duration

(Sect. 56 CSL)

- Not less than 1 year nor more than 4 years
- Less than 1 year:
 - ✓ When list drops below **3** willing acceptors
- After 1 year:
 - ✓ When list drops below **3** willing acceptors

Eligible List Certification (*Extra Credit*)

- Veterans (Sect. 85 CSL):

- ✓ Promotional -

- Disabled - 5 extra points
 - Non-Disabled - 2.5 extra points

- ✓ Open Competitive –

- Disabled - 10 extra points
 - Non-Disabled - 5 extra points

■ **Can use only once!!!!**

Transfers (Sect. 70.1 CSL)

- Section 70 .1 CSL:

- ✓ Transferee Must:

- (a) Be permanently appointed
 - (b) Be in a lower grade for at least 1 yr.)
 - (c) Be within 2 salary grades)
 - (d) Have taken an similar exam
 - (e) Have the OK of new appointing authority
 - (f) Serve a new probation term

Probation

Probation

- A period of time in which a supervisor closely monitors the work performance of a newly hired or appointed individual to determine whether that employee should be appointed permanently in that title.

Probation Terms

- Determined by the applicable Civil Service rules:
 - NYS Rule 4.5
 - Local Government – Local Civil Service Rules (XIV)
 - Unified Court System – Part 25.22 of Rules of the Chief Judge
 - Unclassified Service – **Check State Law or Local policy**
 - Instructional Employees – NYS Education Law, and Part 30 of the Rules of the NYS Commissioner of Education

Length of Probation

- Not Less than 26 nor more than 52 Weeks
- Not Less than 8 nor more than 26 Weeks
- Not Less than 12 nor more than 52 Weeks
- Not Less than 8 nor more than 52 Weeks
- 3 years (instructional positions)

Absences During Probation

- Up to 10 days MAY be considered to be time served.
- NYS & UCS up to 20 days if probation Period exceeds 26 weeks MAY be considered to be time served.
- Probation term MAY be extended by the length of time not considered to be time served

Temp or Provisional or Contingent permanent service in a Higher Grade

- Service MAY be considered Satisfactory service.
- After min period of probation is served employee may ask about higher level service
 - If higher level service is not considered satisfactory the employee may request to return to the lower level position.
- Probation cannot be terminated until the employee has served the minimum period of probation.

Notice of Termination from Probation

- Rules vary
- Can occur at any time after the min period
 - Exception:
 - Incompetency or misconduct (anytime) CSL Sec 75
 - Negotiated contract - disciplinary procedure
- Typically notice given two-weeks before end of probation period.

Restoration to Eligible List

- Probationer's name MAY be reinstated on Eligible list:
 - If Probationer
 - Resigns prior to end of term OR
 - Is terminated
 - Probationer must request restoration to list
 - Civil Service will make inquiry

Personnel Actions

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Personnel Actions

Reassignments

Reassignments

- Defined in the Civil Service Rules
- Employee does not have a choice (unless there is contract language that uses seniority for work locations)
- Movement of a position to a different work location within the same Department and/or appointing authority
- Movement of an employee from a position under a title to another position under the same title and Department / appointing authority
- No Probation Period required

Personnel Actions

Transfers

Transfers (Sect. 70.1 CSL)

- Section 70 .1 CSL:

- ✓ Transferee Must:

- (a) Be permanently appointed
 - (b) Be in a lower grade for at least 1 yr.
 - (c) Be within a similar salary grade
 - (d) Have taken an similar exam
 - (e) Have the OK of new appointing authority
 - (f) Serve a new probation term

Local Gov Employees – Check Rules

Transfers

- **Written request** may be required:
 - Permanent employee in a competitive class position ***and***
 - The appointing authority of the *target* position .
- **Must be voluntary** on the part of the employee and the appointing Authority.
- Subject to the approval of the **Personnel Officer**

Transfers (Section 70.4)

- Section 70.4 CSL:

- ✓ Competitive Class Only:

- To a position in a *different occupational area* where different knowledges, skills & abilities are tested for
 - Transferee must have already competed in a similar examination
 - Cannot have failed most recent exam
 - Can occur in the face of an eligible list

Transfers (70.1 CSL Con't)

- Can occur in the face of an OC eligible list
- Can occur in the face of an Promo eligible list
 - Check LG Rules however
- **Cannot occur in the face of a Preferred List.**
- Transfers must be voluntary on part of employee.
- Leave of Absence from former position:

Check rules & contract.

Transfers (Section 70.4)

- Section 70.4 CSL:

- ✓ Competitive Class Only:

- To a position in a *different occupational area* where different knowledges, skills & abilities are tested for
 - Transferee must have already competed in a similar examination
 - Cannot have failed most recent exam
 - Can occur in the face of an eligible list

Transfers (70.4 CSL Con't)

- Probation will be required
- Must be voluntary on employee's part
- Must have approval of New appointing authority
- Leave from former position (ck rules & contract)

Personnel Actions

Leaves of Absence

Leaves due to Personnel Actions

- Promotion of a permanent employee
 - Where a probation term is required.
- Transfer of a permanent employee
 - Where a probation term is required.

(check local rules)

Leaves due to Personnel Actions

- Temporary Appointment

- In a higher level title
- Employee must be on probation in lower level position

- Provisional Appointment

- In a higher level title
- Employee must be on Probation in lower level position.

Leaves due to Personnel Actions

- Discretionary Leaves of Absence

- *Without Pay*

- Not to exceed 1-yr

- Beyond 1-yr

- Employee must return to work for 3-months

- Personnel officer may waive the 3-month requirement

- » **No leave should extend beyond 2-yr**



*Understanding
New York State
Civil Service Law
End of PART 2*

Presented by:
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