

## Buffalo & Erie County Public Library

### PERSONNEL POLICIES AND PROCEDURES MANUAL

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**SUBJECT: Introduction to Civil Service Administration (Informational)**

**CHAPTER: II**

**SECTION: 1**

**EFFECTIVE DATE: 1/81**

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#### I. STATEMENT OF PURPOSE

New York State has the oldest merit system of any state in the country. Enacted in 1883, New York State Civil Service Law includes provisions for the administration of Civil Service matters at the local government level. The Erie County Personnel Department, headed by the Commissioner of Personnel, directly administers Civil Service Laws and Rules for Erie County Government. The Commissioner of Personnel is appointed by the County Executive for a six (6) year term of office.

In addition to administering Civil Service Law for County government, the Commissioner of Personnel is charged with the administration of Civil Service Law for all political sub-divisions within Erie County except for the Cities of Lackawanna, Tonawanda, and Buffalo. Each of these jurisdictions maintains its own Civil Service Commission.

As provided by the State's Civil Service Law, a municipal program must include the principle of merit, rule making authority, and a procedure for appeal. Administrative guidelines of such a program should emphasize stability of policy and flexibility of procedure.

Furthermore, under the provisions of Civil Service Law all positions in Erie County Service are allocated to either the unclassified service or the classified service. Positions in the classified service are allocated to one (1) of four (4) Jurisdictional Classes: Competitive, Non-Competitive, Labor, or Exempt.

The purpose of this Section is to provide general information regarding the administration of Civil Service within the Buffalo & Erie County Public Library.

## II. DEFINITIONS

### A. Types of Service

1. **Unclassified Service:** Unclassified positions which are outlined in Section 35 of Civil Service Law, and therefore not covered under Civil Service Law, include:
  - a. All elected officials and most appointing authorities;
  - b. All officers and employees of the County Legislature with duties directly related to the performance of the legislative function;
  - c. All officials and employees of the Board of Elections; and
  - d. All professional positions in the community college system.
  
2. **Classified Service:** Civil Service Law, Section 40 states that the classified service shall be comprised of all offices and positions not

included in the unclassified service. These four (4) classes include:

- a. Exempt Class: Section 41 of Civil Service Law and Rule III for the Classified Civil Service describe these positions as those for which competitive examinations or other qualification requirements are not practicable. By law, all positions in this class involve either highly confidential or policy making functions. (Exempt positions are listed in Appendix A of the Classified Rules.)
- b. Non-Competitive Class: Section 42 of Civil Service Law and Rule IV for the Classified Civil Service describe these positions as those not in the exempt or labor class, and for which is it not practicable to determine merit and fitness by competitive examination. However, all non-competitive appointees must meet training and experience requirements as established by the Commissioner of Personnel (Non-competitive positions are listed in Appendix B of the Classified Rules).
- c. Labor Class: Section 43 of Civil Service Law and Rule V for the Classified Civil Service describe these positions as those of unskilled labor and for which no examination is generally found necessary by the Commissioner of Personnel. Appointment is made at the discretion of the appointing officer, and in accordance with bargaining unit agreements. (Labor class positions are listed in Appendix C of the Classified Rules).
- d. Competitive Class: Section 44 of Civil Service Law describes these positions as all positions for which it is practicable to determine the merit and fitness of applicants by competitive examination. This includes all positions except those in the exempt, non-competitive, or labor class.

## B. Types of Appointments

1. Permanent Appointment: An appointment made to a vacant position to which no other employee has a prior claim, and which is expected to continue longer than one (1) year. A permanent appointment can be made to any Civil Service jurisdictional class.
  
2. Provisional Appointment: An appointment made to a permanently vacated competitive class position for whose title no eligible list exists.
  - a. A person who meets minimum qualifications for the title is appointed until an examination is held, an eligible list is established, and a canvass of eligibles is completed. Provisional appointment to a promotional position is normally made from those person(s) who are in a direct promotional line, if one exists.
  - b. Such appointments are made only to competitive class positions.
  
3. Temporary Appointment: An appointment that is made to a vacant position which:
  - a. Is limited to a maximum duration of one (1) year;
  - b. Is to a position to which an employee on leave of absence from the position has a prior claim; or
  - c. Is to a position/title which has not yet been allocated to a Civil Service jurisdictional class.

Temporary appointment may be made under any Civil Service jurisdictional class.

4. Trainee Appointment: An appointment to a position which has been

designated as a trainee position by the Commissioner of Personnel because recruiting for a higher title has not been possible.

5. Regular Part-time Appointment: An appointment which is regularly scheduled throughout the year for at least twenty (20) but less than forty (40) hours each week. Such appointments are also permanent appointments.
6. Part-time Appointment: Appointment in which the incumbent works fewer than twenty (20) hours per week. Such appointments are not permanent appointments.

### III. GUIDELINES

#### A. Allocation of Titles

The Commissioner of Personnel recommends the allocation of titles to jurisdictional classes. However, the New York State Civil Service Commission retains final decision-making authority over the assignment of jurisdictional classes for all titles--namely, whether the positions/titles will be in other than the competitive class, i.e., in the non-competitive, labor, or exempt class; or whether they will be part of the Unclassified Service.

#### B. Permanent Competitive Class Appointments

1. All permanent appointments to competitive class positions must be made from applicable eligible lists.
2. Appointment or promotion from an eligible list to a position in the

competitive class shall be made by the selection of one (1) of the three (3) highest ranking eligibles on an appropriate Civil Service list who is willing and able to accept such appointment or promotion at the time it is offered. The Civil Service "Rule of Three" determines who is reachable on a list for appointment. Three names are counted down from the top of the list. Everyone ranked above or tied in score with the third candidate is reachable.

3. If an eligible list contains three or more names when first established, and a canvass list of eligibles determines there are at least three acceptors, it is a mandatory eligible list and must be used to fill vacancies in the title for which it was established. If the number of persons on the eligible list is reduced to one or two, it is no longer a mandatory eligible list, but it remains a valid eligible list. In such case, the appointing authority may either make a permanent appointment of one of the remaining persons on the non-mandatory eligible list, or may elect to fill a vacancy through provisional appointment, as described in Section D below.
4. Appointments and promotions shall be made from the eligible list most nearly appropriate for the position to be filled.

C. Permanent Appointments in Other than the Competitive Class

Permanent appointment in other than the competitive class may be made to any vacant position to which no other employee has a prior claim; which is expected to last more than one year; and which has been allocated to a specific Civil Service jurisdictional class.

#### D. Provisional Appointment

1. We quote Civil Service Law, Section 65:

“Whenever there is no appropriate eligible list available for filling a vacancy in the Competitive class, the appointing officer may nominate a person to the State Civil Service Department or municipal commission as qualified after such non-competitive examination, (s)he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination. Such non-competitive examination may consist of a review and evaluation of the training, experience, and other qualifications of the nominee, without written, oral, or other performance tests.”

2. Any provisional appointee must compete in the first examination held for the title of the position in which he/she is serving. Willful failure to compete will result in termination of provisional appointment.
3. Service under provisional appointment does not confer or establish any prior right toward any permanent appointment. In order to receive permanent appointment the provisional appointee must be reachable on the eligible list when it is established.
4. If any examination does not create an eligible list a provisional appointee may be reappointed provisionally to the position once, pending a second examination. Failure to establish a passing score on two (2) successive examinations for the same title will result in termination of provisional appointment and removal from the position.

#### E. Duration of Temporary Appointments

We quote Section 64, New York State Civil Service Law:

1. "A Temporary Appointment may be made for a period not exceeding three (3) months when the need for such service is important and urgent."
2. "A Temporary Appointment may be made for a period exceeding three (3) months under the following circumstances only:
  - a. "When an employee is on leave of absence from his/her position, a temporary appointment to such position may be made for a period not exceeding the authorized duration of such leave of absence as prescribed by statute or rule."
  - b. "A temporary appointment may be made for a period not exceeding six (6) months when it is found by the State Civil Service department or appropriate municipal Civil Service Commission, upon due inquiry, that the position to which such appointment is proposed will not continue in existence for a longer period."
  - c. "Where a temporary appointment is made to a position originally expected to exist for no longer than six (6) months and it subsequently develops that such position will remain in existence beyond such six-month period, such temporary appointment may be extended, with the approval of the State Civil Service Department or municipal Civil Service Commission having jurisdiction, for a further period not to exceed an additional six (6) months."

#### F. Temporary Appointments from Eligible Lists (Competitive Class)

1. A temporary appointment for a period not exceeding three (3) months may be made without regard to existing eligible lists.
2. A temporary appointment for a period exceeding three (3) months but not exceeding six (6) months may be by the selection of a person from



an appropriate eligible list, if available, without regard to the relative standing of such person on such list.

3. Any further temporary appointment beyond such six-month period or any temporary appointment originally made for a period exceeding six (6) months shall be made by the selection of an appointee from among those graded highest on an appropriate eligible list, if available.

#### G. Temporary Appointments without Examination

We quote Section 64, New York State Civil Service Law:

"Notwithstanding the provisions of subdivisions one or two of this section, the Civil Service department or municipal commission having jurisdiction may authorize a temporary appointment, without examination, when the person appointed will render professional, scientific, technical, or other expert service (a) on an occasional basis or (b) on a full-time or regular part-time basis in a temporary position established to conduct a special study or project for a period not exceeding eighteen (18) months.

"Such appointment may be authorized only in a case where, because of the nature of the services to be rendered and the temporary or occasional character of such services, it would not be practicable to hold an examination of any kind."

#### H. Status During Temporary or Provisional Appointment

If a competitive class employee with permanent status is appointed to a higher graded and more responsible position in the B&ECPL on either a temporary or provisional basis, he/she retains permanent status in the lower level position. He/she is put on Leave of Absence from the lower position and may return to it if permanent status is not gained under the higher graded title.

I. Seniority Provisions

1. When a person without permanent status under any title in the classified service accepts provisional or temporary competitive class appointment, time served under such appointment is not counted toward seniority for retention in case of lay-offs.
2. When an employee presently holds permanent status under a title in the classified service and later accepts a temporary or provisional competitive class appointment, such time served is counted in computing overall seniority. (See the seniority provisions of the respective collective bargaining agreements).

J. Trainee Appointments

1. A trainee appointment is conditioned upon a satisfactory term of service by the trainee in the lower training title and, where required, the completion of specific academic courses.
2. Upon the satisfactory completion of the training term, and of specified academic courses if required, an appointee shall be entitled to full permanent status in the position for which trainee appointment was made.
3. The employment of a trainee may be discontinued anytime between the end of the eighth week of the training period and the end of the term of training service if his/her conduct, capacity, or fitness is not satisfactory, or at any time during his/her term of training service if

he/she fails to pursue or continue satisfactorily such academic courses as may be required.

K. Part-Time Appointments

1. The appointee must meet the minimum requirements for the position/ title as contained in the position specification (job description) for the position.
2. Part-time appointees do not participate in fringe benefits.