

Buffalo & Erie County Public Library

PERSONNEL POLICIES AND PROCEDURES MANUAL

SUBJECT: Civil Service Examinations (Informational)

CHAPTER: II

SECTION: 2

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I. CIVIL SERVICE EXAMINATIONS

Article V, Section 6, of the State Constitution requires:

"Appointments and promotions in the Civil Service of the State and all 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."

A. Types of Examinations

There are three (3) separate types of competitive examinations.

1. **Open Competitive:** Examination in which any person who meets requirements and minimum qualifications as set forth in the examination announcement may participate.
2. **Promotional:** Examination for which participation is limited to those persons who are presently permanently employed in the service of the jurisdiction and who have completed the stated minimum

amount of service in the promotional field as clearly stated on the examination announcement.

3. Non-Competitive Promotion Exam: Where there are three (3) or fewer eligibles in a field of promotion, the appointing authority may nominate one (1) of these eligibles for Non-Competitive Examination--i.e., an examination in which only this eligible may participate. In effect, one does not compete against other eligibles, only against the exam. If he/she receives a passing score, he/she may receive permanent appointment.

4. In addition to the examination methods stated above, any candidate for promotion where there are three (3) or fewer eligibles in the field of promotion may be promoted without further examination if he/she either:
 - a. Has previously passed an examination identical to the title to which promotion is sought; or
 - b. Is permanently employed in a position in the direct line of promotion and meets all requirements for promotion including time in grade and minimum qualifications. Such employee may be promoted based upon a review of his/her qualifications for promotion. This method may only be used once per employee during their employment with Erie County.

B. Appropriateness of Examination

Section 50 of Civil Service Law states:

"The merit and fitness of applicants for positions which are classified in

the competitive class shall be ascertained by such examinations as may be prescribed by the State Civil Service Department, or the municipal commission having jurisdiction."

1. Most examinations administered by Erie County are actually prepared and scored by the State Civil Service Department.
2. County Personnel requests an examination from NYS Civil Service for each competitive class title and attaches a copy of the appropriate position specification.
3. The New York State Department of Civil Service prepares the examination for each request.
4. Exam content is determined by the State, based on the position-specification submitted by the County.

C. Scoring of Examinations

1. The scoring of each examination shall be made on the scale of 100. This maximum shall represent the best performance possible, expected or attained.
2. A score of 70 shall represent performance meeting the minimum needs of the position(s) to be filled.
3. While actual scores are based on a maximum score of 100, Veteran's credits are added to these scores to establish the Veteran's adjusted score. With these credits, some adjusted scores may be higher than 100.

II. RESIDENCY REQUIREMENTS

A. Background

Section 23 (4-a) of Civil Service Law permits the establishment of local residency requirements for examinations and/or for appointments for municipalities within the State. Authority is granted to the Commissioner of Personnel to establish residency requirements for admittance to all examinations administered by the Erie County Personnel Department and for appointment to positions in Erie County Service. Authority is granted to appointing authorities in other local jurisdictions (in other than County service) to give preference in employment to residents of the local jurisdiction.

B. Rules

Rule VII of The Rules for the Classified Service for Erie County establishes requirements for local residency prior to examination and/or appointment for Erie County:

"An applicant must be at the time of examination, and for at least one month prior thereto, and at the time of appointment, a resident of the municipality in which appointment is to be made [. . .] Residence requirements may be suspended or reduced by the Personnel Officer in cases where such requirements are disadvantageous to the public interest."

C. Guidelines

1. Most questions on residency are rather clear cut and a determination as to where permanent residency is maintained can be readily made. However, this is not always the case. If there is any question

concerning residency, it should be referred to the Commissioner of Personnel. Documentation may be required by the Commissioner of Personnel to substantiate any residency claims made by any applicant.

2. Ours is a highly mobile society. Local residents often establish temporary residence outside of Erie County, but fully intend to return to Erie County when the need for temporary absence no longer exists. Therefore, a basic question that applies in determining where permanent residence exists is: "Where did the applicant INTEND to maintain permanent residence, and is there reasonable evidence to support his/her claim of intent?"
3. Objective documentation that can be submitted to help prove permanent local residence may include, but is not limited to:
 - a. Proof of ownership and/or maintenance of a local residence during temporary absence;
 - b. Current valid registration as a voter in an appropriate jurisdiction within Erie County;
 - c. A current valid personal driver's license which lists the home address in an appropriate jurisdiction within Erie County;
 - d. Military discharge papers which list entrance into the military from an appropriate address within Erie County;
 - e. Proof of receipt of the applicant's personal and/or business mail at an appropriate Erie County address during the period of absence;
 - f. For a student, proof that the parent(s)' permanent residence is an appropriate Erie County address, that the student resided in the parent(s) home or in Erie County immediately prior to

entering his/her course of study, and that he/she intends to return to Erie County or to the appropriate jurisdiction to live when study is completed, etc.

4. Residency requirements apply as stated for open competitive examinations and for original appointments. Local residence is not required for promotional examinations or appointments.
5. If a municipality, etc. within Erie County adopts a local law that local residency must be continuously maintained by its employees in order to continue in the municipality's employment, it is the sole responsibility of the local jurisdiction to police and enforce the requirement.

III. PREFERRED LISTS

A. Preferred Lists

Preferred lists are established only for competitive class titles. Employees who are laid-off as a result of retrenchment will have their names placed on preferred lists for their respective titles in inverse order to their lay-off dates. A person on a preferred list has absolute preference, in line with his/her seniority, for reinstatement to the first opening which occurs under his/her layoff unit. Preferred lists are also used to fill openings in other B&ECPL Departments.

B. Guidelines

1. Preferred lists should not be confused with "Recall Lists" which

apply to other than competitive class employees. Recall lists are based on seniority and are established in accordance with respective collective bargaining agreements.

2. Preferred lists take absolute priority over any other eligible list for filling appropriate vacancies for competitive class positions.
3. A laid-off employee may remain on a preferred list for a maximum of four (4) years unless the life of the list is specifically extended by legislative action.
4. An eligible on a preferred list who refuses a temporary appointment will not be eligible to receive a second certification for a temporary appointment from the list. However, his/her name will remain on the preferred list for permanent appointment.
5. An eligible who declines appointment to a lower-level position will remain on the preferred list for his/her previous title.
6. Preferred lists may be used to fill vacancies not only in the same title, but also under similar titles, as deemed appropriate by the Commissioner of Personnel.
7. Probationary employees on a preferred list who were laid-off before completing their probationary period will be required to complete the probationary period upon being reinstated.

8. Temporary employees without permanent status under any title occupying positions for which a preferred list is certified should be given a two (2) week notice of termination, where at all possible.
9. Canvass letters sent to eligibles on a preferred list must be acknowledged within five (5) working days or the eligible will be considered to have refused appointment.

IV. ELIGIBLE LISTS

A. Eligible Lists

Eligible lists result from competitive class Civil Service examinations and are established and certified in accordance with Civil Service Law, Sections 17, 23, 25, 50, 56, 57, 60, 61, 65, 71, 73 and 85 and in accordance with the Rules for the Classified Service of Erie County.

B. Guidelines

1. Permanent Appointments from Lists

All permanent competitive class positions will be filled by appointment from an appropriate eligible list, using the "Rule of Three," as stipulated in Civil Service Law. If an eligible list has fewer than three (3) names on it, the appointing authority may appoint one (1) of the eligibles from it or disregard the list and call for a new examination.

2. Temporary Appointments from Lists

- a. An appointing authority may make a temporary appointment for a period not exceeding three (3) months without regard to an eligible list.
- b. A temporary appointment for a period exceeding three (3) months but not exceeding six (6) months shall be made by selection of a person from an appropriate eligible list (if one exists) and may be made without regard to the relative standing of the eligible on the list.
- c. Any further appointment beyond such six (6) month period, or any temporary appointment originally made for a period exceeding six (6) months, shall be made from an appropriate eligible list (if any) using the "Rule-of-Three."

3. Test Scores and Ranking of Eligibles

- a. Candidates who pass a Civil Service examination will have their scores entered on the appropriate eligible list in descending order of their test scores.
- b. All "tied scores" shall occupy the same position on the eligible list, and appointment may be made by the appointing authority from any eligible who is reachable based on his/her score.

- c. All applicants who pass an examination shall be notified as to the date the list is established, the duration of the list, and their relative standing on the list. If the life of the list is subsequently extended, each successful candidate shall be so notified.
- d. The names and test scores of any applicants who participate in the examination but who do not qualify by test score (receive a score of lower than 70) are held in strict confidence. By law, they cannot be released to anyone other than the individual applicant.

4. Review of Eligible Lists

Eligible lists are public records and may be inspected upon request at the Erie County Personnel Department.

5. Duration of Eligible Lists

- a. The duration of an eligible list is fixed by resolution of the Commissioner of Personnel at the time that the examination is announced. Lists are good for a minimum of one (1) year and a maximum of four (4) years.
- b. If the announcement for an examination does not specify a duration of less than four (4) years, the list shall remain in effect until exhausted, for four (4) years, or until superseded by a new eligible list, whichever comes first.

6. Certification of Eligibles from Prior Lists

- a. When an eligible list has existed for less than one (1) year and contains the names of fewer than three (3) people willing to accept appointment, and a new list for the same position or group of positions is established, the names of the persons on the old list shall have preference in certification over the new list until the old list is one (1) year old. During such period, the names from the old list shall be certified along with a sufficient number of eligibles from the new list to provide a field from which selection for appointment may be made.
- b. When an old list that has been in existence for one (1) year or more is continued upon the establishment of a new list which contains less than three (3) names, the Commissioner of Personnel may certify the names on the old list along with enough names from the new list to provide a sufficient number of eligibles from which selection for appointment may be made.

7. Disqualification of Eligibles

- a. Either the State Civil Service Department or a Personnel Officer may refuse admittance to examination or certification to an eligible for specific reasons, as set forth in Section 50 of Civil Service Law.
- b. Any determination to disqualify an applicant, to refuse to certify a name from an eligible list, or to have an eligible's

name stricken from an eligible list can be made only by the Commissioner of Personnel or by the New York State Civil Service Department.

- c. There is no legal requirement that the appointing authority must interview one or more than one reachable eligible in order to make appointment.

V. PROMOTIONAL EXAMINATIONS

A. Promotional Examinations

Wherever practicable, competitive class positions shall be filled by promotion. All promotions in the competitive class are based on merit and fitness as determined by examination. Section 52.1 of the Civil Service Law states:

"Filling vacancies by promotion. Vacancies in positions in the competitive class shall be filled, as far as practicable, by promotion from among persons holding competitive class positions in a lower grade in the department in which the vacancy exists, provided that such lower grade positions are in direct line of promotion as determined by the State Civil Service department or a municipal commission. Where the State Civil Service department or a municipal commission determines that it is impractical to limit eligibility for promotion to persons holding lower grade positions in direct line of promotion, such department or commission may extend eligibility for promotion to persons holding competitive class positions in the lower grades which the department or commission determines to be in related or collateral lines of promotion and may prescribe minimum training and experience qualifications for eligibility for such promotion."

B. Guidelines

1. A promotional exam is required when a legitimate field for promotion to a higher title exists, i.e., where there are three (3) or more eligibles with the required training and/or experience working in a direct line of promotion, a promotional examination must be held.
2. Exception: There is a procedure in Civil Service Law referred to as "Clearing the Field" that may be used if the appointing authority and Commissioner of Personnel have reason to believe that even though there are three (3) or more persons in what would normally be a promotional field, that some of these employees either do not have all of the necessary qualifications for the higher title or that some of them might not be interested in participating in a promotional exam.
3. There are two types of Promotional exams:
 - a. Straight Promotional and
 - b. Non- Competitive Promotional.
4. Lines for Promotion
 - a. Direct Line: This is the most frequent type of promotional examination. The employees of the department in which the vacancy occurs who are in positions that normally and naturally would prepare them for promotion are considered to be in direct line. Competition in such a promotional examination is limited to those employees serving in directly

lower grades, when there is a sufficient number of such employees to result in an adequate eligible list.

- b. Indirect Line: In certain situations, it is desirable to open promotional examinations to employees that are not necessarily in direct line positions but are in positions that are so closely related that they are a logical source of potential candidates. This is especially true where there is evidence that promotion from the next lower grade is not likely to produce adequate competition or sufficient eligibles for filling vacancies. Such alternative field for promotion is referred to as a collateral line or related line.

5. Simultaneous Open Competitive and Promotional Examinations

- a. If a review of the promotional field reveals that there are insufficient numbers of candidates to fill available openings under a particular title, or if it is anticipated that a promotional list will be quickly exhausted, an open competitive examination may be scheduled at the same time as the promotional examination.
- b. Successful candidates in the promotional examination will be certified first.
- c. If there are insufficient numbers on the promotional list, then the open competitive list will be certified as a "back-up" list.

6. Open Competitive Examination Only

If a promotional field has fewer than three (3) eligibles qualified to participate in a promotional examination, the appointing authority may elect to request an open competitive examination only to fill the existing vacancy.

C. Eligibility

1. In no case shall any person be eligible to participate in a promotional examination until he/she has served at least six (6) months on a permanent basis in a lower grade position. The examination announcement will state the specific period of permanency that is required for entrance to the promotional examination.
2. More commonly the required period of permanency is set at one (1) year or more to establish eligibility for promotion. The same rules apply for competitive promotion as for other competitive appointments: to be appointed permanently, an employee, provisional or not, must pass the examination and be reachable on the eligible lists.
3. If an employee nominated for non-competitive promotional exam has already successfully completed an examination appropriate to the title, another examination is not required.
4. Any person who is nominated for non-competitive examination for promotion to a higher title and who fails to pass two (2) successive examinations for the title, shall not thereafter be eligible for

employment in such position, except by appointment from an eligible list established following competitive examination.

D. Persons on Preferred Lists and Leave of Absences

Any employee who has been suspended from his/her position through no fault of his/her own and whose name is on a preferred list, and any employee on leave of absence from his/her position, shall be allowed to compete in a promotional examination for which he/she would otherwise be eligible on the basis of his/her actual service before suspension or leave of absence.

E. Credit For Provisional Service

No credit in a promotional examination may be granted to any person for any time served as a provisional appointee in the position to which promotion is sought or in any similar position. However, such provisional appointee shall receive credit in his/her permanent position for time served under provisional appointment in the higher graded position.

F. Retention Rights of Provisionally/Temporarily Promoted Employees

If an employee with permanent competitive class status is promoted to a higher level position temporarily or provisionally, his/her rights to return to the lower position are protected, unless during the time he/she is serving in the higher level position the position in which he/she held permanent status is abolished for budgetary or other reasons. In such a case, if other positions exist within the lay-off unit under the title in which he/she held permanent status, he/she may displace the least senior

employee serving under that title, seniority permitting. If the employee cannot displace or "bump" within the department, his/her name is put on a preferred list according to his/her seniority date.

VI. VETERANS CREDITS

Military veterans who have served in time of war, as set forth and defined in the New York State Civil Service Law, Section 85 Article VI, who were honorably discharged or released under honorable circumstances from such service, can receive additional credit toward permanent competitive class appointments.

A. Policy

Article V, Section 6 of the New York Constitution provides that any member of the armed forces who served therein during time of war and is honorably discharged or released under honorable circumstances is eligible to receive additional points in a competitive examination for appointment in the civil service.

1. A non-disabled veteran may receive five (5) additional point credits in a competitive examination for original appointment or two and one-half (2 ½) points additional credit in a competitive examination for promotion.
2. A disabled veteran receive ten (10) additional point credits in a competitive examination for original appointment or five (5) points additional credit in a competitive examination for promotion.

B. Guidelines

1. A veteran must attain a passing score of 70 on the examination before veteran's credits can be applied toward appointment.
2. A candidate may choose to use his/her credits on any given appointment. However, veteran's credits can be used only once for any permanent Civil Service appointment anywhere in the State of New York. Once they are used, they are no longer available.
3. A veteran who has elected to use his/her credits for permanent appointment but who does not complete the required probationary period for the position may have his/her credits restored.
4. Any candidate for a B&ECPL position who believes he/she is entitled to additional credit in a competitive examination may make application for such credit at any time between the date of his/her application and the date of the establishment of the resulting eligible list.
5. Candidates are allowed a period of not less than two (2) months from the date of the filling of his/her application in which to produce documentary evidence affirming his/her eligibility to receive additional credit.
6. Any candidate who fails to produce documentary evidence proving his/her eligibility for additional credit by the time an eligible list is established will not be granted the additional credit.

7. Candidates seeking credit for veteran status should contact the Erie County Personnel Examination Division.