

# Personnel Guide for Civil Service Compliance

# **Essex County Personnel Department**

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# Introduction

The Essex County Department of Personnel and Civil Service is the civil service agency for all divisions of government in Essex County. This includes responsibility for County Government, Town Government, Village Government, School Districts and Special Districts.

We have prepared this guide in an effort to provide you with an explanation of your basic civil service responsibilities. We will attempt to describe those responsibilities in as brief and concise a manner as possible. There are many aspects of civil service administration not discussed in this guide since our purpose is to comment on only those activities with which you are most often concerned.

If you have problems or concerns not covered by this guide, we will be happy to provide assistance in solving them. If you need clarification or explanations of what is contained in this guide we will be happy to help in that regard as well.

# **Classification of Government Service**

Positions in government within New York State fall within two categories: the unclassified service and the classified service.

# Unclassified service

Unclassified service consists of all elected officials, certain department heads, employees of the Essex County Board of Supervisors and Board of Elections. In Essex County, the unclassified service positions comprise only a small percentage of the workforce.

# Classified Service

Classified Service makes up the vast majority of positions and are assigned to one of the following classes:

# **Exempt**

In the exempt class there is a confidential relationship between the employee and the elected official, department head or policy making level positions. e.g. deputies and secretaries to department heads.

# <u>Labor</u>

In the labor class there are no minimum qualifications. e.g. entry level service employees and laborers.

# **Noncompetitive**

In the noncompetitive class specific experience and education are required and it is impracticable to hold a competitive examination to fill them. e.g. various part-time positions, registered and

licensed practical nurses, and mechanic positions. (Included in the noncompetitive class can be a competitive position that is reclassified for a disabled applicant Section 55-A of Civil Service Law.)

# **Competitive**

The competitive class require applicants to meet both minimum qualifications and pass an examination. Those candidates with the highest examination scores are the first to be considered for appointment.

# **The Appointment Process**

# **Permanent Appointments**

Permanent appointments are made to vacant classified service positions. A permanent appointment in the competitive class is made from a list of qualified eligible candidates who have passed an appropriate Civil Service examination. All permanent appointments are subject to successful completion of a probationary period. A permanent appointment cannot be terminated, interrupted or discontinued except in accordance with the laws, rules, and regulations governing the classified service, or an applicable labor contract.

# **Provisional Appointments**

Provisional appointments may be made to a vacant competitive classified position if there is no appropriate civil service eligible list for that title. A qualified applicant may be provisionally appointed and serve in the position until an appropriate eligible list can be established and a permanent appointment made.

# **Temporary Appointments**

Temporary appointments may be made to competitive class positions when a current employee is on a leave of absence from his/her position or when the appointment will not continue for more than six months. Temporary appointments may be made for a period of not more than three months without regard to existing eligible lists, providing the candidate meets the minimum qualifications. Appointments for more than three months, but not more than six months, may be made by selecting any candidate from the appropriate eligible list, without regard to their standing on the list.

In an exceptional case, a temporary appointment may be made without examination when the person appointed will render professional, scientific, technical or other expert services on either an occasional basis or on a full time or regular part-time basis in a temporary position created to conduct a special study or project for a period not exceeding 18 months.

### **Transfer Appointments**

Transfer appointments are movements of permanent competitive employees from their positions in one department or jurisdiction to the same or similar positions in the same or lower grade in another department or jurisdiction. The Civil Service Commission determines similarity. No employee may be transferred without his/her consent. Transfers must be approved the Essex County Personnel Office.

# **Probationary Periods**

Probationary periods may vary in the minimum and maximum periods. But all permanent appointments to positions in the classified service include a required probationary period during which the employee must prove his/her ability to do the work.

# **Civil Service Exams**

# Introduction

In New York State, competitive civil service examinations provide a way to ensure that appointments to municipal public service jobs are based on merit and fitness. Those people who are interested in public service employment must demonstrate that they have the knowledge, skills and abilities needed to do a particular job by taking a civil service examination.

Examinations are given by municipal civil service agencies for specific job titles under their jurisdiction. The examinations that are offered are based on the duties performed by incumbents in the title for which the examination is announced. Each examination has minimum qualifications that must be met. (There may also be residency requirements.) Minimum qualifications and the subjects of examinations for the same or similar titles may vary from one civil service agency to another based on program needs, including the way in which the duties of the positions are defined. Therefore it is not appropriate to assume that a test in one Civil Service Agency will be the same as one in a different Civil Service Agency. An examination most frequently includes a written test. Also, there is an application fee for most examinations.

You can find out about examinations being offered and where examinations announcements are posted by contacting the Essex County Department of Personnel. You can also watch for postings of examination announcements in you local post offices or other public places. Examination announcements provide information on the title, minimum qualifications, typical job duties, and the type and subjects of the examination that will be given.

Most local civil service examinations outside of New York City are prepared by the New York State Department of Civil Service. Listed below are answers to the most frequently asked questions about local civil service examinations prepared by the State. Also addressed are some questions municipal employees have about promotion examinations.

# **Frequently Asked Questions**

# **Applying For an Exam**

Do I have to be an Essex County resident to take a civil service examination?

For most positions, there are no residency requirements to participate in an examination. However, there are some positions particularly at the local levels which do require residency. The examination announcement will indicate such a requirement under the **"Residency"** section.

#### Who uses Essex County Civil Service eligible lists?

The eligible lists of eligible job candidates established by the Essex County Department of

Personnel are used to fill vacancies in competitive titles used by the County of Essex, as well as local jurisdictions throughout Essex County. The local jurisdictions that use the lists established by the Essex County Department of Personnel are all Towns, Villages, School Districts and Special Districts.

#### Can I see the eligible list?

Yes, you can see an eligible list at the Essex County Department of Personnel. A copy of an eligible list may be obtained under the Freedom of Information Law, a payment of a fee may be required.

#### What is an appointing authority?

An Appointing Authority refers to the unit of government that is the hiring authority, i.e. departments of Essex County, each Town, Village, School District and Special District within the County.

#### What is a "local" jurisdiction?

The term "local" jurisdiction refers to any one of the following appointing authorities over which the Essex County Department of Personnel has civil service responsibility. These include all Towns, Villages, School Districts and Special Districts within the borders of Essex County.

#### How can I tell when a particular test will be given by the County?

Not all examinations are held on an annual basis. Examinations are prepared and scheduled by the New York State Civil Service Commission. The Essex County Department of Personnel requests examinations to be scheduled based on the number of positions, the length of the current eligible lists, the age of the list, and the turnover of employees within the title. Eligible lists are valid for a minimum of one year from the date of establishment and up to four years at the discretion of the Essex County Personnel Officer.

#### How can I obtain information on particular civil service examinations?

Announcements for Essex County Civil Service examinations are available in the Essex County Department of Personnel. Copies are also posted in all County and municipal buildings located within Essex County. Copies are sent to post offices, the New York Department of Labor and various other locations throughout Essex County.

#### Is there an application fee?

There is a \$15.00 processing fee for each examination. This fee is non-refundable. Send a check or money order payable to the Essex County Treasurer. The Essex County Department of Social Services covers this fee for some qualifying recipients, further information can be obtained from their office.

#### Can I take more than one examination on a test date?

The New York State Civil Service Commission prepares the examinations in such a manner that you can participate in more than one examination on the same day. All examinations for which you have been approved must be taken on the same day in the same testing center. Be sure to indicate on your application that you are filing for more than one examination and at which site you wish to take your examinations. If you are applying for both a State and Local government examination, you must make arrangements to take all your examinations at the State site by calling 518 457-2487 no later than two weeks before the test date.

#### Is the experience required in the minimum qualifications always full time?

Unless specifically stated otherwise, the number of years of experience in the minimum qualifications is based upon the presumption of full time employment. Appropriate part time experience may be pro-rated.

#### Must I file an official college transcript with my examination application?

An official transcript is not required unless noted on the announcement. However, if we need clarification we may ask you to provide a copy of your transcript.

#### Where are the exams held?

Essex County Department of Personnel usually holds it examinations at the Elizabethtown/Lewis Central School or at the Essex County Government Center. However, the site for your particular examination will be printed on your admission notice. For information on how to get to a specific site please call the Essex County Department of Personnel at 518 873-3360 during normal business hours.

#### Are study materials available?

The New York State Civil Service Commission neither provides nor recommends any study materials. Some materials may be available through public libraries, public employee unions and private publishers. We can make no comment on the quality or usefulness of such materials.

#### What are "special testing arrangements"?

"Special arrangements" refer to requests for examination assistance with regard to scheduling or specialized testing needs. Candidates who meet the <u>alternate test date</u> criteria should provide the appropriate documentation with the exam application. Those candidate who require specialized assistance should submit the appropriate documentation detailing the assistance needed.

Candidates who are observers of the Saturday Sabbath must file the required form signed by their religious advisor.

#### When will I get my admission notice?

Admission notices are mailed to candidates approximately eight calendar days prior to the exam date. If you do not receive an admission notice by Tuesday before the examination date, you should call the Essex County Department of Personnel at 518-873-3360. It is the candidate's responsibility to call prior to the exam date.

#### Are examinations ever cancelled?

As the New York State Civil Service Commission schedules examinations on a statewide basis, it is very rare for one to be cancelled for any reason. Examination will be held as scheduled unless a State of Emergency is declared for Essex County. Any change or cancellation notices are broadcast on radio and tv stations.

### After you take an exam

#### How can I review my test?

Some exam questions are open to review on the Saturday after the test is held. This is called "pre-rate review" and you must request this review at the test site when you finish your examination. You will be able to see the questions and the tentative answers, but not your answer sheet. This is the forum in which to challenge what you may consider to be an inappropriate question and/or answer.

After you receive your score, you may request a computational review, in which you will be able to review a copy of your answer sheet and the final answer key, but not the test questions.

#### How long does it take to establish a list after I take a test?

The New York State Civil Service Commission scores examinations. Eligible lists are established, on average, three months after the examination date.

#### **Types of examinations**

#### What is the difference between open-competitive and promotional examinations?

Open competitive examinations can be taken by any individual who demonstrates that they meet the minimum educational and experience qualifications cited on the examination announcement.

Promotional examinations are restricted to current employees of the participating appointing authority who meet the service requirement and minimum qualifications as cited on the announcement.

It is possible for current employees to take an examination both open-competitively and promotionally, and appear on both lists if they pass the examination. Promotional eligible lists are certified before open-competitive eligible lists.

#### What does continuous recruitment mean?

Continuous recruitment refers to those examinations for which applications are accepted on a continuous basis, i.e. there is no deadline by when an application must be received. The scores for these examinations are inter-filed with existing candidates scores to form a constantly changing eligible list. Your name remains on the list for one year.

#### What is a training and experience examination?

A training and experience examination is a method of testing whereby a candidate receives a test score based on the information contained in the submitted application. The score is weighted between education (training) and experience.

#### What are seniority points?

Civil Service Law requires that due consideration be given to seniority for candidates who are permanent employees of the participating appointing authority. Seniority points are added to passing scores only. One point is credited for each creditable five-year period or fraction thereof.

#### What are veteran's credits?

In accordance with New York State Law, veterans of the armed forces, as defined by New York State, are entitled to additional points to be added to a passing score.

# Becoming a civil service employee

### How is my examination scored?

The New York State Civil Service Commission designs, prepares and scores the civil service examinations used by the Essex County Department of Personnel.

Effective June 1996, the New York State Civil Service Commission expanded the use of a scoring methodology called **band scoring**. Band scoring facilitates the assessment of candidate performance on written tests in a more realistic manner than the traditional individualized scoring formulas and is used for both open competitive and promotional examinations.

In band scoring methodology for open competitive examinations, the number of correct answers (raw score) determines which band is applied for a final score. An individual band scoring table is prepared for each examination by the New York State Civil Service Commission. Veteran's credits are added after the band has been applied. A candidate does not move from pass to fail or from fail to pass as a result of band scoring.

The following represents the typical scoring formula used in promotional examinations:

# **Passed Candidates:**

- Number of questions you answered correctly. This is your Raw Score:
- Seniority Credits to which you are entitled:
- Seniority Credits + Raw Score between \_\_\_\_\_and \_\_\_\_. (This falls into a band set by the state for each exam)
- Final Score is:
- Veteran's Credits to which you are entitled:
- List Score is:

### **Failed Candidates:**

- Number of questions you answered correctly. This is your Raw Score:
- Raw Score \_\_\_\_\_ And BELOW
- Final Score is FAILED

As previously stated, neither seniority points nor veteran's credits can be used to enhance a failing score.

#### Who can be considered for appointment from a civil service list?

Everyone ranked above or tied with the third candidate on the eligible list can be considered for appointment. This is sometimes referred to as the "Rule of Three".

In accordance with Civil Service Law, appointing authorities may elect to give preference in appointment to residents of their jurisdiction. In these instances, a list of resident eligibles is considered first for appointment. The Rule of Three is applied to this resident list.

#### What is the "rule of three"?

New York State Civil Service Law requires that an appointing authority must select from the top three candidates willing to accept an appointment. If there are less than 3 candidates willing to accept the current appointment offer, the appointing authority does not have to use the list and can make a provisional appointment, which will result in the scheduling of a new examination.

#### How could I get the same failing score on two different tests?

Using the band scoring method, all failing scores are reported as "60." For instance, say a test has 90 questions, and the minimum passing score is set at 54 raw score points. If you answered less than 54 questions correctly, your final score would be reported as "60."

#### How could someone get an 82.5 on an exam? Don't all final scores now fall into bands that are in 5 point increments?

This difference is due to the award of veterans' credits. On all examinations, veterans receive 2.5 points and disabled veterans receive 5 points, if they choose to apply them on this particular exam.

#### How long does an eligible list stay in existence?

In accordance with the New York State Civil Service Law, an eligible list must remain in existence for one year from the date of its establishment or until there are no candidates left who are willing to accept appointment, whichever occurs first. The Essex County Personnel Officer may extend "the life" of the list beyond one year to a maximum of four years.

A new examination in the title may be requested and held at any time during the life of an existing eligible list. It is the responsibility of the candidate on the existing list to keep abreast of the examination schedule and to apply for and participate in the new examination.

At the time of establishment of the new list, a decision is made on whether or not to allow the existing list (over one year of age) to continue or to replace it with the new list. When the "old" list is continued, the new list "supplements" the old list until a predetermined date. The old list is used first.

#### What is a probationary period?

The probationary period is a time when new employees must prove themselves capable of doing the job for which they were hired. The probationary term for an open competitive examination is not less than eight (8) weeks, nor more than twenty six (26) weeks. The probationary term for a

promotional examination is twelve (12) weeks. There are some position, such as Trainees, Police Officers, and Corrections Officers for which the probationary period is not less than twelve weeks nor more than fifty two (52) weeks.

#### What is a provisional appointment?

A provisional appointment is a temporary appointment to a competitive class position for which no eligible list exists with fewer than three candidates who are willing to accept the position being offered. In order to become permanent, the employee who is provisionally appointed must take the next examination for the position in question. The appointment to the position is then made from among the three highest scoring candidates who indicate their willingness to accept the position. The provisional appointee must be among the top three interested candidates in order to be appointed.

Do I have to be a United States citizen in order to be employed in civil service?

Unless otherwise stated on the examination announcement or job specification, you do not have to be a citizen. You must be legally able to work in the United States.

#### What happens if I change my address?

Candidates are responsible for notifying this office, in writing, of a change of address. Do not depend on the postal service to forward your mail in sufficient time to respond to a canvass letter for a position.

# **Personnel Transactions**

# Introduction

Under the New York State Civil Service System it can be expected that an employee will be the subject of any number of personnel transactions. From original appointment until separation, termination, or resignation from service, employees may undergo many different changes. Each appointment, promotion, salary increase, transfer, leave of absence, separation, reinstatement, or reclassification must be executed in accordance with specific procedural requirements outlined in either law or rules.

When these procedural requirements are not followed precisely, questions may arise as to the legality or appropriateness of a transaction. The answer to such questions could have serious consequences for both the employer and the employee involved.

While most transactions begin with the appointing authority, it is the responsibility of the Essex County Department of Personnel to ensure that every transaction is made properly and appropriately documented. Each and every personnel transaction must be reviewed by our staff to verify the propriety of the transaction, and ensure that it is accompanied by the necessary supporting documentation.

# **General Procedures**

Whether it be an appointment, promotion, transfer, change in salary, termination, or any other action involving an employee, appointing authorities are required to notify the Essex County Department of Personnel. This requirement is covered under Section 97 (1) of the New York State Civil Service Law.

The Essex County Department of Personnel makes a form available to appointing authorities to be used to notify us of personnel changes. This form in Essex County is identified as MSD-428, Supplemental Payroll and Report of Personnel Change. A sample of this form is in <u>Appendix A - Forms</u> at the end of this guide.

# Form MSD-428

The MSD-428 form provides space to record the nature of transactions being processed and provides the appointing authority with information as to what specific action and/or supporting documentation is required of them. The form is filed by the appointing authority to the Essex County Department of Personnel along with the necessary supporting documentation upon making **any** personnel change.

The information contained in, and accompanying the form, is the basis of the records maintained by the Essex County Department of Personnel concerning the employment history of each employee. Therefore, it is critical that the information supplied to the civil service agency be accurate and complete.

Form MSD-428 Report of Personnel Change is divided into three broad areas:

The top portion of the form contains space to record information about the employee involved in the change and the position in which the employee is or will be serving. Included within this section is information on the employing agency, the name of the employee, his/her address, the title of the position in which they will be serving, the salary of that position, information on status as a veteran or exempt volunteer firefighter, and the employee's social security number.

Every piece of information is requested for a specific purpose, such as to identify certain rights which may be obtained or possessed by the employee and/or to determine what type of action may be necessary by the local civil service agency. For example, it is important to know if an employee is a veteran because veterans possess certain rights upon abolition of a position, removal or discipline. The title of the position must be checked against the Essex County Department of Personnel classification plan to ensure that a class specification exists; if a class specification does not exist, our office must proceed to classify the position and adopt a job related position specification.

The middle portion of the form lists the possible personnel transactions which may occur, the action necessary by the appointing authority for each transaction, and the effective date of the transaction. The information reported in this section is the basis of the processing of personnel transactions.

There are three groups of personnel changes on the form:

- 1. Appointments
- 2. Terminations
- 3. Other changes

These personnel changes will be discussed in detail in the next section of this guide.

The bottom portion of this form provides a space for the appointing authority's signature, title, address, and any additional remarks as may be necessary. It is important that the appointing authority or appointing officer (i.e., the officer or body have the power of appointment to subordinate positions) or legally designated representative, sign the Report of Personnel Change. The Report of Personnel Change is an official document; only the appointing authority can legally authorize a personnel change.

The bottom portion also provides space for the Essex County Department of Personnel to certify that the personnel change conforms to the provisions of Civil Service Law and Rules. This process is discussed in more detail in the Payroll Certification Section of this guide.

# Appointments

The most basic personnel transaction is the appointment of an individual to a position in an agency under the jurisdiction of the local civil service agency. The procedure to be followed is dictated by the jurisdictional classification to which the position has been allocated and the type of appointment to be made.

# **Types of Appointment**

The type of appointment that an employee receives is very important for civil service administration. The determination of the type of appointment will dictate the rights the individual has or will acquire under Civil Service Law and Rules. Therefore, it is vital that the civil service agency obtain sufficient information from appointing authorities to determine the type of appointment that is to be authorized.

There are four types of appointments provided for in the Civil Service Law.

- Permanent
- Temporary
- Provisional
- Contingent Permanent

# **Permanent Appointments**

Permanent appointments are made to positions that have been established by the appointing authority, which are wholly vacant, and are not encumbered by an employee on a leave. Positions to which permanent appointments are made are typically fully budgeted positions that are expected to continue in existence year after year. A grant-funded position is considered a permanent one if there is a reasonable expectation the grant will be renewed. Permanent appointments are made to exempt, non-competitive, labor, and competitive class positions. In addition, permanent appointments are made to either full-time or part-time positions.

# **Temporary Appointments**

Temporary appointments, as defined in Section 64 of the Civil Service Law, are made either to replace an employee who is on a leave of absence or when there is a need to fill a position established for a short duration, in accordance with the conditions and time frames specified in the law.

Temporary appointments may be made to positions in the exempt, noncompetitive, labor, and competitive class.

# **Provisional Appointments**

Provisional appointments are authorized under Section 65 of Civil Service Law, and are made only to competitive class positions. Provisionals are a "stop gap" measure when an eligible list is not available from which to make a permanent appointment. When a provisional appointment is made, the civil service agency must, within one month, order or begin preparing an examination for the position.

# **Contingent Permanent Appointments**

Contingent permanent appointments are a type of competitive class appointment authorized under Section 64(4) of Civil Service Law, which provides that a municipal civil service agency may adopt a rule to allow contingent permanent appointments. A contingent permanent appointment is made to an encumbered position, and the appointee has the civil service rights and benefits of permanent status that are specifically set forth in the applicable local civil service rule. Such rights that may be extended by the rule, include layoff rights of bump, retreat and preferred list placement, protection against arbitrary dismissal, promotion eligibility, and eligibility for transfer or reassignment.

# Jurisdictional Classification

Employments under Civil Service Law are made either to the unclassified service, or the classified service. Positions allocated to the classified service are the ones which will be discussed in this guide. The classified service is subdivided into four distinct jurisdictional classifications: the exempt class, labor class, non-competitive class, and competitive class. The responsibility of the appointing authority, the role of the civil service agency, and the supporting documentation necessary to accompany a personnel change will vary according to which jurisdictional classification a position

is assigned to. For purposes of this guide, the presumption is that a position has been formally placed into an appropriate jurisdictional classification in accordance with Civil Service Law and Rules and, if other than competitive, the title of the position is listed in the Appendices of the local agency's Civil Service Rules.

# **Exempt Class**

Positions in the exempt class, as defined by Section 41 of CSL, are those for which neither competitive nor non-competitive examination has been found to be practicable. Therefore, the appointing authority is required only to notify the Essex County Department of Personnel of the appointment on a form designated for that purpose such as Form MSD-428, described in this manual.

In recording appointments to exempt class positions, the civil service agency should be aware of the requirements of Section 41(2) of the Civil Service Law. Section 41(2) requires that, within four months of the occurrence of a vacancy in an exempt class position, the local civil service agency must review the duties and responsibilities of the position and determine if the position, as presently constituted, properly belongs in the exempt class. Until the review is completed, an appointment to the position may only be made on a temporary basis.

It should also be kept in mind that not more than one exempt appointment may be made under the title of any position placed in the exempt class unless a different number is specifically prescribed in the Rules Appendices of the civil service agency. When the number of positions exceeds the number of authorized positions that are listed in the Appendices, the additional positions are considered to be in the competitive class. The civil service agency must determine the proper jurisdictional classification of the additional position(s), and formally amend its Rules to place them in the exempt class.

# **Non-Competitive Class**

Positions in the non-competitive class, as defined by Section 42 of the Civil Service Law, are those for which competitive examination has been found to be not practicable. A title may be listed as singular or plural in the Appendices of the Civil Service Rules. If more than one position is created in a title, and the title is listed in the Appendices as singular, these additional positions are considered to be in the competitive class until the Appendices are formally amended to indicate that the additional position(s) are also non-competitive. Both permanent and temporary appointments to positions in the non-competitive class may be made only after the administration of an appropriate non-competitive examination prescribed by the local civil service agency.

Each local civil service agency has adopted a rule which specifies the procedures to be followed by appointing authorities in making appointments to non-competitive class positions. Generally, the procedures require the appointing authority to nominate a person for appointment by filing an application (MSD-340) detailing the nominee's qualifications with the local civil service agency.

Typically, the non-competitive examination that is conducted by the local civil service agency consists of a review of the nominee's training and experience on the application against the

minimum qualifications prescribed in the position specification. The appointing authority submits a Report of Personnel Change (Form MSD-428) and the nominee's qualifications on an Application for Employment as prescribed by the local civil service agency. From this non-competitive examination, the civil service agency determines whether or not the nominee meets the minimum qualifications prescribed for the position and will notify the appointing authority of the results of the examination. If the nominee possesses the required training and experience and "passes" the examination, the local civil service agency authorizes the individual's employment. The appointment can be made only after approval of the nominee for employment by the local civil service agency.

# Labor Class

Positions in the labor class, as defined by Section 43 of the Civil Service Law, are unskilled and generally do not require any minimum qualifications which candidates must meet. Appointing authorities submit a Report of Personnel Change (Form 428). A permanent or temporary appointment may be made to a labor class position depending on whether the position is unencumbered and/or its expected duration.

# **Competitive Class**

Competitive class positions, as defined by Section 44 of the Civil Service Law, are those for which it is practicable to determine the merit and fitness of applicants by competitive examination. There are several types of appointments that may be made to competitive class positions as indicated below. These appointments depend on the availability of an appropriate eligible list, the number of candidates on the list, the duration of the appointment and whether or not the position is encumbered.

# Permanent Appointments within the Competitive Class

In order to make a permanent appointment, as defined by Section 61 of the Civil Service Law, to a competitive class position, an appointing authority should check with the Essex County Department of Personnel to determine if a preferred list or a special military eligible list exists for the title. These lists have priority over all other eligible lists for filling competitive positions.

In the absence of preferred or special military eligible lists, the Essex County Department of Personnel must certify the eligible list resulting from an examination for the title to be filled. A permanent appointment must be made from among the three highest-ranking candidates, or anyone tied with the third highest ranked candidate on the list willing to accept appointment.

The Essex County Department of Personnel must certify the list even if it contains only one or two names because the appointing authority has the option of appointing from a list containing fewer than three names.

To effect a permanent appointment to a competitive position, the appointing authority must return the certification of eligibles to the Essex County Department of Personnel noting the appointment, along with a Report of Personnel Change (Form MSD-428).

# **Provisional Appointments within the Competitive Class**

If no eligible list exists, or if a list contains fewer than three eligibles willing to accept appointment (i.e., a non-mandatory eligible list), then a provisional appointment, as defined by Section 65 of the Civil Service Law, may be authorized by the Essex County Department of Personnel.

Once it has been determined that an appropriate eligible list for the title either is not available or does not contain a sufficient number, i.e., three or more candidates, the appointing authority may nominate a person for provisional appointment. The appointing authority submits the nominee's training and experience on an application form to the civil service agency.

The non-competitive examination consists of a review of the nominee's training and experience against the prescribed minimum qualifications in the specification for the position. When notified of approval, the appointing authority can make the appointment and notify the civil service agency by a Report of Personnel Change (Form MSD-428).

Following approval of the provisional appointment, an examination must be ordered or initiated by the Essex County Department of Personnel within one month. A provisional appointment must be terminated within two months following the establishment of an eligible list appropriate for filling the position.

However, there is one situation provided for in Section 65(3) of the Civil Service Law in which a provisional appointee can be continued up to four months after the establishment of the eligible list. This can be done in cases where there are a large number of provisionals, and the appointing authority has concerns that terminating all provisional employees within the two months following the establishment of an eligible list would disrupt or impair essential services. In this case the appointing authority must submit evidence of the fact to the Essex County Department of Personnel, which may authorize terminating the provisionals at prescribed intervals over a four-month period so that the operating agency's operation will not be adversely affected.

In authorizing successive provisional appointments, both the provisions of the Essex County local civil service rule on provisional appointments, and the provisions of Section 65(4) of the Civil Service Law must be followed.

The law provides that a successive provisional appointment to the same position can only be made under the following conditions.

- When an examination for a position or group of positions fails to produce an eligible list adequate to fill all positions then held on a provisional basis, or
- when an eligible list is exhausted immediately following its establishment, a new provisional appointment may be authorized to any of the positions remaining unfilled.

The law further states that if a current or former provisional becomes eligible for permanent appointment, he/she must be appointed permanently or terminated. He/she cannot receive another

provisional appointment to the same position. Also, Essex County civil service rules limit the number of successive provisional appointments to the same position too a maximum of two (2) that an individual may receive.

# **Temporary Appointments within the Competitive Class**

Temporary appointments as defined in Section 64 of Civil Service Law are made to positions that are either:

- For a period up to three months where the need is important and urgent;
- Encumbered by a permanent employee on a leave of absence for the duration of the leave;
- For a duration not to exceed six months; the authorization for a temporary appointment may be extended for an additional six months to a maximum of one year by the Essex County Department of Personnel;
- In exceptional cases, where the person employed will render professional, scientific, technical or other expert service, for a period not to exceed 18 months.

The appointing authority must specify the duration and the reason for temporary appointments on the Report of Personnel Change (Form MSD-428).

Temporary appointments to competitive class positions that will continue beyond three months' duration must be made from an appropriate eligible list, if available, as follows:

Duration of Temporary Appointment	Use of Eligible List
Less than three (3) months	Not required
Three (3) to six (6) months	From among all eligibles on list
More than six (6) months	From among top three highest standing candidates willing to accept temporary appointment

In an exceptional case, a temporary appointment may be made without examination when the person appointed will render professional, scientific, technical, or other expert services on either an occasional basis or on a full-time or regular part-time basis in a temporary position created to conduct a special study or project for a period not exceeding 18 months.

As with permanent and provisional competitive class appointments, an application must be provided to the Essex County Department of Personnel along with other supporting documentation such as

the Report of Personnel Change (Form MSD-428). Persons appointed to a position on a temporary basis must meet the minimum qualifications prescribed for the position prior to appointment.

# **Contingent Permanent Appointments within the Competitive Class**

Section 64(4) of the Civil Service Law authorizes the Essex County Department of Personnel, by adoption of a local rule, to extend some or all of the rights and benefits of permanent status to an employee who is appointed or promoted from an eligible list to an encumbered position. These appointments are generally referred to as contingent-permanent. The rights granted to persons appointed on a contingent-permanent basis are as follows;

a. A 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 or promotion eligible 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:

1. 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.

2. Return of Incumbents: In the event of a layoff or if 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 based on the inverse order of their contingent permanent appointments.

3. 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 and does not have a permanent position to return to, he/she shall have his/her name placed on a preferred list for certification as a mandatory list in the civil division in which the contingent permanent appointment was made.

4. 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.

b. All prospective appointees under this rule shall receive a copy of this rule and be canvassed as "permanent-contingent permanent."

c. Contingent permanent appointments from eligible lists 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 re canvassing of the eligible list in the event the contingent permanent position becomes unencumbered. Acceptance of an 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 may be offered reassignment, prior to canvassing for a permanent appointment from an appropriate eligible lists 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.

# **Other Transactions**

# Probationary Terms

The Civil Service Law Section 63 requires that every original appointment to a position in the competitive class and every interdepartmental promotion is subject to the successful completion of a term of probation. The duration of the term is specified in the Essex County civil service rules.

Additionally, the Essex County Department of Personnel has adopted under our local civil service rules the establishment of a probationary term upon appointment to an intra departmental promotion, and appointment to an exempt, non-competitive, and labor class position.

The Essex County Department of Personnel must receive notification from the appointing authority when an employee completes the probationary term or is terminated during or at the conclusion of the probationary term. The appointing authority notifies civil service by using a Report of Personnel Change (Form MSD-428).

The Essex County Rules regarding Probationary Terms are as follows;

- 1. Probationary Term.
  - a. Except as herein otherwise provided, every permanent appointment from an open competitive list, and every original appointment to a position in the non-competitive, exempt or labor class shall be for a probationary term of not less than eight nor more than twenty-six weeks.

- b. The probationary term for a Trainee position, in which an appointee is required to serve a specified training term, shall not be less than twelve nor more than fifty-two weeks.
- c. The probationary term for Police Officer, Firefighter and Correction Officer positions shall be not less than twelve nor more than fifty-two weeks.
- d. Every permanent appointment from a promotion eligible list shall be for a probationary period of twelve 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.

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 or before completion of the maximum period of probation in the manner as prescribed in these rules.

2. Interdepartmental transfers.

An interdepartmental transfer means a transfer from a position in one department to a position in another department. Every interdepartmental transfer shall be for a probationary term of twelve weeks. If the conduct or performance of the probationer is not satisfactory, his/her employment in such position shall be discontinued at the end of such term.

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 of a 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 absence during the probationary term, may, in the discretion of the appointing authority, 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 section, are not considered 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.

# 5. Report on probationer's service.

The probationer's supervisor shall carefully observe his/her conduct and performance and at least two weeks prior to the end of the probationary term, shall report thereon in writing to the proper appointing authority. The supervisor shall also, from time to time during the probationary term, advise the probationer of his/her status and progress. 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 lists 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 or provisional services in higher level position.

When an employee who has not completed his/her probationary term is appointed on a temporary or provisional basis to a higher level position, the period of temporary or provisional service rendered by such employee in such 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 such 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 the 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 probationer in his/her 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.

9. An employee who is reinstated to a position after a separation of more than one year, either in his 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 the original appointment to such position.

Appointments become permanent in one of two ways:

- 1. Retention of the employee after the successful completion of the maximum probationary period.
- 2. Notice to the probationer at any time after the completion of the minimum period of probation that his/her probationary term has been satisfactorily completed.

Proper use of the probationary period requires the active participation of the employee's supervisor in evaluating his/her progress. The appointing authority must also make a determination regarding whether to retain or terminate the probationer prior to the end of the probationary period. **The maximum probationary period cannot be extended.** 

As per item # 4 above, our local civil service rules provide that any days the employee is absent during the probationary period may be added to the minimum and maximum periods of the probationary term at the discretion of the appointing authority.

# <u>Transfers</u>

Transfers are governed by Civil Service Law Section 70 as well as our local civil service rules. The Essex County Rules regarding Probationary Terms are as follows;

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. (1) The Personnel Officer determines that the examinations' scopes and qualifications for the positions held and to which appointment is sought are identical; or

(2) 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.

# <u>Reinstatements</u>

The conditions for reinstatements are governed by our local civil service rules and are as follows;

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 Essex County 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 services.

Reinstatement following a break in service of more than one year must also satisfy the following additional conditions:

- 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 required successful completion of medical and/or physical agility tests for original appointment, the individual being reinstated must satisfy these criteria immediately prior to reinstatement.

# Leaves of Absence

Leaves of Absence are covered under Section 20 of the Civil Service Law, under General Municipal Law Section 92, County Law Section 207 and under Education Law Section 1709. As well the Leaves of Absence are covered under our local civil service rules and are as follows;

- 1. A leave of absence without pay may be granted by the appointing authority in conformance with the regulations established by the appointing legislative body, provided however, that a permanent competitive class employee may not encumber a permanent competitive class position by a leave without pay while holding a permanent appointment to another position in the civil service of the same municipality.
- 2. A leave of absence without pay, not to exceed four years, shall be granted by an appointing officer to an employee who is a veteran of the Armed Forces of the United States, provided such a leave of absence is for the purposes 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 days after the termination of his/her courses of study.

Generally, leaves of absence are discretionary decisions on the part of appointing authorities. A leave of absence, with or without pay, may be granted by the appointing authority pursuant to local law or legislative action.

For example Section 92 of the General Municipal Law provides that the governing board of each county, city, town, village, and school district may establish by local law, ordinance or resolution, rules and regulations concerning leaves of absence. Section 207 of the County Law authorizes the County Board of Supervisors to fix and regulate the granting of leaves of absence to employees paid by county funds, and stipulates that leaves of absence shall not be in excess of one year.

In the case of Union Free School Districts, Section 1709(16) of the Education Law provides for the school board to adopt rules and regulations governing leaves of absence of employees.

Section 20 of the Civil Service Law provides for adoption of rules by municipal civil service agencies. Most local civil service agencies have adopted a rule on leaves of absence. The typical local rule provides that a leave of absence may be granted for one year; the leave may be extended for an additional year under conditions satisfactory to the local civil service agency.

It is important to note that a local civil service rule establishing conditions for leaves of absence only applies where the legislative body has not adopted a resolution, rule, or regulation controlling leaves of absence.

If the governing board of a civil division has adopted a local law, ordinance, resolution, or policy governing leaves of absence pursuant to state statute, it takes precedence over the local leave of absence rules.

### **Police Promotion Situations**

Section 209-q of the General Municipal Law provides that a police officer promoted to a higher ranking permanent position, who is fully qualified for the promotion, except for the training requirements, shall be deemed to be on leave of absence from the lower ranking position.

# Military Leave of Absence

In addition, a leave of absence, not to exceed four years, shall be granted to a veteran of the armed forces of the United States by the appointing authority for purposes of taking courses where authorized by Military Law.

When a leave of absence is granted by an appointing authority, a Report of Personnel Change (Form MSD-428) must be sent to the local civil service agency. The form should include the relevant facts involving the leave of absence in the remarks section. Necessary documentation should be filed and/or recorded, and the leave of absence should be noted in the employee's roster record.

# **Resignations**

Resignations, as defined in Section 20 of the Civil Service Law, should be in writing and signed by the resigning employee. The Report of Personnel Change (Form MSD-428) should be accompanied by a copy of the signed resignation, as well as relevant facts included in the remarks section. Information such as a resignation following a leave of absence, or other type of multiple transaction or any type of unusual situation, should be included on the form.

The resignation letter should be kept in the employee's file, and the resignation recorded in the roster record. Essex County's local civil service rules provides for the method by which a resignations is put into effect.

The following conditions apply under Essex County's rules;

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 the date of the commencement of such absence. 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/her termination shall be recorded as a dismissal rather than as a resignation.

3. Withdrawal or amendment.

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

4. Voluntary demotion of permanent competitive employee.

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 level position for which he/she is eligible for such reinstatement as provided in these rules. Such statement of relinquishment shall not take effect until 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.

# Layoffs

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 Seventy-five of the Civil Service Law which resulted in the imposition of any of the following penalties upon such employee:

- 1. Dismissal from the service, or
- 2. Suspension without pay for a period exceeding one month, or
- 3. Demotion in grade and title.

e. 1. Permanent service shall state on the date of the incumbent's original appointment on a permanent basis in the classified service; however, in the case of disabled veterans, the date of original permanent appointment is considered to be sixty months earlier than the actual date, while non-disabled veterans are considered to have been appointed thirty 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 Eighty-five of the Civil Service Law.

2. 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 re-employment; the prior service would not count.

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

4. 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 of the other civil division.

5. If an employee was covered-in to a classified position upon acquisition by a civil division of an agency 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.

d. 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 Social Services Department.

e. 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.

f. When several employees were originally appointed on a permanent basis from the same eligible list on that same day, their retention rights shall be determined by their rank on the eligible list, that person having the highest rank having greater retention rights over those having lower ranks.

g. All temporary, provisional and contingent permanent employees occupying these positions must be let go before any permanent employee is suspended from such positions.

h. 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.

i. The order of suspension among probationary employees shall follow the same principles as that among permanent employees.

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 standing.

b. 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.

c. If an employee refused 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.

d. 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 can not 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.

# 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 form which he/she 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.

# **Disciplinary** Action

Disciplinary procedures are governed by Section 75 of the Civil Service Law or by the collective bargaining unit agreement. The various provisions and applications of Section 75 provide for a wide range of personnel transactions resulting from disciplinary action. Therefore, it is important for the civil service agency to promptly be informed of any disciplinary actions.

Section 75 applies to:

• a person holding a position by permanent appointment in the competitive class

(completed probation).

- a person holding a position by permanent appointment in the exempt, noncompetitive or labor class who is a wartime veteran as defined in Section 85 of the Civil Service Law, or an exempt volunteer firefighter as defined in General Municipal Law.
- an employee holding a position in the non-competitive class, other than one designated as policy influencing or confidential, who has completed at least five years of continuous service in that class.

Any disciplinary action undertaken by an appointing authority against an employee who falls into one of the above categories must adhere to the procedural requirements specified in Section 75.

Section 75 of the Civil Service Law requires that the Essex County Department of Personnel, whenever an employee is found **guilty** of the charges, be provided with a copy of the charges, the employee's written response to the charges, a transcript of the hearing, and the determination.

# Appeal to Disciplinary Action

Section 76 of the Civil Service Law provides for a procedure for an employees to appeal the determination under Section 75. Within 20 days of the notice of the determination, an employee found guilty of charges may appeal the determination, in writing, to the Essex County Personnel Officer, or he/she may appeal through State Supreme Court in an Article 78 procedure.

A Section 76 appeal consists of a review of the record of the hearing by the Essex County Personnel Officer including documents and records which were reviewed during the hearing, and any written and oral argument the Personnel Officer allows.

The Essex County Personnel Officer may affirm, reverse or modify the determination of the hearing officer. The Essex County Personnel Officer may annul the findings on one of the specifications and refer the matter back to the appointing authority for redetermination of the penalty. If the Essex County Personnel Officer agrees with the findings of the guilt to the specifications, but considers the penalty imposed excessive, the penalty may be modified.

The decision of the Essex County Personnel Officer is final and not subject to Court review unless a matter of law is at issue.

# Alternative to Section 75 Procedures

The Taylor Law provides for collective bargaining to establish terms and conditions of public employment, including disciplinary action procedures. The courts have also permitted labor and management to negotiate contractual disciplinary procedures which may supplement, modify or fully replace the procedures provided for in Section 75 and 76 of the Civil Service Law.

Employees who are represented by an employee organization would, through the organizations

assent to the agreement with management which includes disciplinary procedures, waive their rights under Sections 75 and 76.

# **Demotions**

In addition to demotions resulting from disciplinary actions, an employee may voluntarily elect to accept a demotion. Demotions can be allowed by agreements between management and the employees representatives which permits the employee to resign from his/her present position and concurrently be permanently reinstated to a lower level title.

The MSD 428 form needs to be submitted by the appointing authority and should clearly identify the reason for the demotion. If the demotion is voluntary, a written statement from the employee relinquishing his/her position must be obtained and the Personnel Officer must confirm that the reinstatement to the lower level title is in accordance with Civil Service Law and Rules.

# **New Position Classification**

Under provisions of the Section 22 of the Civil Service Law, the authority to classify a position rests with the Essex County Personnel Office. A new position may not be created until the Essex County Personnel Office has reviewed the proposed duties and certified an appropriate title to the legislative body which has the authority to create the position.

The procedures for the creation and classification of new positions are stated in Civil Service Law. Prior to creation of the position, the appointing authority, or other responsible authority, must submit form ECPO 222 which is a statement of the duties of the position to the Essex County Personnel Office for certification of an appropriate title.

The position may be created only with the title certified by the Essex County Personnel Office. The MSD 428 must be accompanied by Form ECPO 222 substantiating that the title was certified by the Essex County Personnel Officer and documents pertaining to the appointment are included.

# **Changes in Classification**

Section 22 of the Civil Service Law provides that a position may only to reclassified by the Essex County Personnel Officer. Reclassification is a formal action of the Essex County Personnel Office, not the appointing authority.

An employee or the appointing authority may request that a position be reviewed for possible reclassification. Such a request should be accompanied by a completed ECPO 222 form.

Whenever an occupied position is reclassified, the Essex County Personnel Office must make a determination of the status of the incumbent in the new title. This determination is made by certification of the Essex County Personnel Officer signature on form ECPO 222.

The approval of the Form 222 changing the classification does not grant status to the incumbent. The incumbent must still qualify for the position following normal civil service procedures.

The appointing authority must submit an MSD 428 to effectuate an appointment to the reclassified position. Additionally, any other documentation and/or information pertinent to the type of appointment, i.e., application for provisional appointment or certification from an eligible list for permanent appointment should also be submitted.

# **Glossary of Municipal Civil Service Terms**

# **Appointing Authority**

an officer, commission or body having the power to select applicants for employment.

# Certification

a select list of those candidates on an eligible list who have indicated an interest in a particular position in a particular location.

# **Certification of Payroll**

Section 100 of the Civil Service Law requires the Essex County Personnel Office to certify that all persons in the classified service receiving compensation for personal service are employed in accordance with the law and rules; individuals may not be paid without such certification.

# **Class or Class of Positions**

one or more positions sufficiently similar in respect to duties and responsibilities that the same title may be used to designate each position in the class, which are allocated to the same salary or grade, with the same qualifications required and the same examination used to select eligible employees.

### **Class Specification**

a written description of a title or class of positions which includes information on the duties and responsibilities of incumbents, minimum qualifications for appointment and other distinguishing features.

# **Classified Service**

all offices and positions in the civil service, exclusive of the military service, not included in the unclassified service, divided into four jurisdictional classes; competitive, non-competitive, labor and exempt.

# Classify

to group positions according to their duties and responsibilities and assign a class title.

# **Collateral Line**

are those titles which are not in a direct line to a promotion title but which are sufficiently comparable in duties and salary grades that incumbents may be allowed to compete in the promotion examination.

### **Competitive Class**

the jurisdictional class comprised of positions for which it is practicable to determine the merit and fitness of applicants by examinations which rank them against each other. All jobs in the classified

service are competitive unless designated or approved otherwise by the State Civil Service Commission.

#### **Continuous Recruitment**

a type of examination for which applicants are accepted continuously. The test itself is administered periodically; successful candidates are added to the list for a specified period of time in rank order without regard to the date of the addition of their names to the eligible list.

#### **Decentralized Examination**

a competitive examination for which all or part of the development, administration and scoring has been decentralized to the municipal civil service agency that will make use of the resulting eligible list.

#### Demotion

the voluntary or involuntary placement or appointment of an employee to a position allocated at a lower salary grade.

#### **Department of Civil Service**

New York State's primary personnel management agency, responsible for the development and maintenance of statewide agency personnel systems; the classification and allocation of State positions; and the recruitment and selection of candidates for State employment. The head of the Department is the President of the Civil Service Commission.

#### **Departmental Promotion Examination**

a promotion examination open only to employees of the department in which the positions to be filled exist.

#### Deputy

officer authorized by law to act generally for and in place of his/her principal.

### **Desk Audit**

a review and discussion of the duties and responsibilities of a position made at the employee's desk or other regular place of work. (Usually done in connection with a classification survey or decision).

#### **Direct Line of Promotion**

positions are considered to be in direct line of promotion if they are in the competitive class titles, in a career series, in a lower salary grade and the title has the same generic root; such as Clerk, Senior Clerk, and Principle Clerk.

### **Eligible List**

a list from which candidates for a competitive class position, ranked in order of their respective final examination ratings, may be appointed.

#### Examination

a formal selection process which includes minimum qualifications, assessment measures,

employment interviews and probationary periods; used to evaluate the qualifications and suitability of candidates for public employment. An examination for a competitive class position ranks candidates against one another. An examination for a non-competitive class position is based on the assessment of a candidate's education and experience as compared to the established minimum qualifications.

#### **Examination Announcement**

a document issued to inform potential applicants of an upcoming examination; the announcement contains but is not limited to the following information: the number and title of the examination, the date of the examination, filing information (including the last date applications will be accepted), minimum qualifications, type and scope of test(s), salary or salary grade, and a duties description; it may also contain vacancy information.

#### **Exempt Class**

one of the four jurisdictional classes in the classified service; those offices and positions in the civil service of State or civil service divisions thereof, defined by Section 41 of the Civil Service Law and listed in the Essex County Civil Service Rules Appendices.

### **Exempt Volunteer Firefighter**

a bona fide member of a volunteer fire department who served in said department for five years and is so certified to be an exempt volunteer firefighter in accordance with Section 200 of the General Municipal Law. Exempt volunteer firefighters may have additional but limited rights in the event of abolition of their position and protection against arbitrary dismissal.

#### **Inter-Departmental Promotion**

a promotion from a position in one department to a position in another department in the same civil division.

#### **Job Description**

a detailed written summary of the duties and responsibilities of an individual job.

### **Jurisdictional Classification**

designation by the Essex County Personnel Officer of position in the classified service in either noncompetitive, labor or exempt class; position not so designated by the Personnel Officer are in the competitive class. Position in the exempt, non-competitive or labor classes must be specifically named in the rules, subject to the approval of the State Civil Service Commission.

#### Labor Class

the jurisdictional class comprised of unskilled or manual labor positions for which there are no minimum qualifications established; applicants may be required to demonstrate their ability to do the job, or to qualify in such tests of their fitness for employment as may be determined practicable.

#### **Merit and Fitness**

phrase summarizing the requirement in the State Constitution that appointments and promotions shall be made according to merit and fitness to be ascertained, as far as practicable, by competitive

examination; Civil Service is, hence, called a "merit system."

#### **Minimum Qualifications**

education and/or experience requirements denoting the minimum standards that all candidates are required to possess for examination or appointment.

#### **Non-Competitive Class (NC)**

one of the four jurisdictional classes of the classified service. The Essex County Personnel Officer may designate a position non-competitive (with approval of the State Civil Service Commission) upon determining that a competitive examination is impracticable for filling the job. However, non-competitive class positions must be filled through examination or by appointment of candidates who meet the established minimum qualifications for the position. Such an examination may be similar to a competitive examination except that successful candidates are not ranked by score. Positions designated 55-a are deemed to be in the non-competitive class.

### **Non-Competitive Promotion (NCP)**

an examination administered when the number of employees qualified for and interested in promotion does not exceed the number of vacancies by more than two; the employee(s) may be nominated by the appointing authority, and if successful on an appropriate examination, receive permanent appointment.

#### **Open-Competitive Examination**

an examination open to all individuals who possess the announced minimum qualifications.

### **Out-Of-Title Work**

duties performed by an incumbent of a position which are not appropriate to the class to which the position has been assigned. Refer to Section 61.2 of the Civil Service Law.

#### **Permanent Appointment**

an appointment made to a position in accordance with applicable laws, rules and regulations; a permanent appointment may provide rights and privileges, such as due process prior to dismissal; eligibility for promotion examinations, transfers, and future reinstatement and certain protections in the event of abolition of positions.

#### **Permanent Service**

generally, the date of the incumbent's original appointment on a permanent basis in the classified service; used for purposes of computing retention rights in the event of layoff. (For disabled veterans the date is 60 months earlier than the actual date; for non-disabled veterans the date is 30 months earlier than the actual date.)

### **Policy Influencing (Non-Competitive Class)**

positions in the non-competitive class whose duties are of a confidential nature or require the performance of functions influencing policy; positions are designated as policy influencing by the Personnel Officer; employees in positions so designated are denied tenure by stature and are not afforded the protections provided to other non-competitive class employees (Section 42(2-a) of the

### Civil Service Law).

### Position

an assigned group of duties and responsibilities which can be performed by one person; commonly known as a "job," a position may be occupied or vacant; see municipal rules for definition.

### **Preferred List**

an eligible list established as a result of a reduction in force, or where otherwise provided by law, which consists of the names of displaced employees ranked by seniority; a preferred list must be used before any other means of filling a position (except certain special military lists); the top acceptor on a preferred list must be appointed or the position left vacant ("Rule of One"). See Sections 80 and 81 of the Civil Service Law and Essex County's Local Civil Service Rules for procedures and legal issues.

### **Probationary Term**

the period of time, commencing upon a permanent appointment, during which an employee's performance on the job is assessed; the final step in the selection process.

### Promotion

generally, in the competitive class, an appointment from a promotion eligible list to a higher level position; in the non-competitive class, the appointment of an employee to a higher-grade position without competitive examination.

#### **Promotion Examination**

an examination for a higher level position open only to permanent employees who are currently serving in or who have served in qualifying titles for periods of time specified in the minimum qualifications.

#### **Provisional Appointment**

a non-permanent appointment to a competitive class position which may be made when there is no appropriate or mandatory eligible list. See Section 65 of the Civil Service Law and refer to the municipal civil service rules for limitations or provisional appointments.

#### "Rule of Three"

refers to the statutory provision that appointment must be made from among the three highest eligibles on an open-competitive or promotion eligible list who are willing to accept the position. (See also Section 61, Civil Service Law)

### **Unclassified Service**

all offices and positions in the civil service of the State and its civil divisions which are not in the classified service; unclassified service positions include, for example, all elective offices, officers and employees of the State/municipal Legislature, members of the teaching and supervisory staff of a school district and certain positions in the State University of New York.

## **Appendix A - Forms**

The attached forms in this section are described below:

#### MSD - 428 Supplementary Payroll Certification and Report of Personnel Change

This form consist of one page and is used to report to the Essex County Personnel Office any changes in regards to positions, including changes in status, salary changes, terminations, leaves, etc... Additionally this form serves as a Supplementary Payroll Certification form which provides the Essex County Personnel Office with salary information which is used to verify payroll information during the Payroll Certification Process.

#### **Application for Examination or Employment**

This form consist of four pages and is the application used for employment as well as applying for examinations. All pertinent information regarding an applicant's qualifications for positions and examinations would be provided on this form.

#### MSD - 340 Application for Non-Competitive Examination for Appointment

This form consist of three pages and is the application used for Non-Competitive positions. Additionally, this form has a section for the Appointing Authority to certify that the applicant is fit for the duties of the position, as well the form has a section which requires that any competitive class employee who accepts a non-competitive appointment certifies that they are forfeiting their rights as a competitive employee.

#### ECPO - 222 New Position Classification Form

This form consist of two pages and is used to provide to the Essex County Personnel Office a statement of the duties and responsibilities of a position. This form is completed by the appointing authority and is used for Classification of a new position or a reclassification of an existing position.

#### ECPO - 222 Short Form

This form consist of one page and is a modified version of the ECPO 222. When an appointing authority wants to create or reclassify a position which is an exact match to the duties, responsibilities, knowledge, skills, abilities and minimum qualifications as it exists in a current position in Essex County, then they can use this short form.

# **Civil Service Procedures Quick Reference**

Nature of Personnel Change	Action Required
Permanent Appointment (Competitive Class)	Select a candidate from ECPO 434 - Eligible List and return completed 434 form with the completed MSD - 428 - Permanent appointments are made to positions that have been established by the appointing authority, which are wholly vacant, and are not encumbered by an employee on a leave. Positions to which permanent appointments are made are typically fully budgeted positions that are expected to continue in existence year after year. A grant-funded position is considered a permanent one if there is a reasonable expectation the grant will be renewed. Permanent appointments are made to exempt, non-competitive, labor, and competitive class positions.
Provisional Appointment (Competitive Class)	Attach Application Form ECPO - 330 (Application for Examination or Employment) - Provisional appointments may be made to a vacant competitive classified position if there is no appropriate civil service eligible list for that title. A qualified applicant may be provisionally appointed and serve in the position until an appropriate eligible list can be established and a permanent appointment made. Provisional appointments are authorized under Section 65 of Civil Service Law, and are made only to competitive class positions. Provisionals are a "stop gap" measure when an eligible list is not available from which to make a permanent appointment. When a provisional appointment is made, the civil service agency must, within one month, order or begin preparing an examination for the position.
Temporary Appointment (Any Class)	On the MSD 428 state the length of the appointment Temporary appointments may be made to competitive class positions when a current employee is on a leave of absence from his/her position or when the appointment will not continue for more than six months. Temporary appointments may be made for a period of not more than three months without regard to existing eligible lists, providing the candidate meets the minimum qualifications. Appointments for more than three months, but not more than six months, may be made by selecting any candidate from the appropriate eligible list, without regard to their standing on the list. In an exceptional case, a temporary appointment may be made without examination when the person appointed will render professional, scientific, technical or other expert services on either an occasional basis or on a full time or regular part-time basis in a temporary position created to conduct a special study or project for a period not exceeding 18 months. Temporary appointments in the exempt, noncompetitive, labor, and competitive class.

Nature of Personnel Change	Action Required	
Contingent Permanent Appointment	Select a candidate from ECPO 434 - Eligible List and return completed 434 form with the completed MSD - 428 - Contingent permanent appointments are a type of competitive class appointment authorized under Section 64(4) of Civil Service Law, which provides that a municipal civil service agency may adopt a rule to allow contingent permanent appointments. A contingent permanent appointment is made to an encumbered position, and the appointee has the civil service rights and benefits of permanent status that are specifically set forth in the applicable local civil service rule. Such rights that may be extended by the rule, include layoff rights of bump, retreat and preferred list placement, protection against arbitrary dismissal, promotion eligibility, and eligibility for transfer or reassignment.	
Seasonal & Substitute Appointments	On the MSD 428 state the length of the appointment Seasonal & Substitute Appointments are the considered a type of temporary appointment, and are not to exceed six months in length.	
Transfer Appointments	<b>Request a letter of determination from the Essex County Personnel Officer prior to offering the position to an eligible candidate.</b> - Transfer appointments are movements of permanent competitive employees from their positions in one department or jurisdiction to the same or similar positions in the same or lower grade in another department or jurisdiction. The Essex County Personnel Officer determines similarity. No employee may be transferred without his/her consent. Transfers must be approved by Essex County Personnel Officer action.	
Elected to Term of Office	<b>Indicate the effective dates of the term of office on the MSD - 428, include Yearly Salary Information.</b> During the term of the elected position if the salary changes in a new year, then a new MSD 428 indicating a <b>"Change in Salary"</b> must be submitted.	
Appointed to Term of Office	Indicate the effective dates of the term of office on the MSD - 428, include Yearly Salary Information or Hourly rate if the position is paid by the hour. During the term of the appointed position if the salary changes in a new year, then a new MSD 428 indicating a "Change in Salary" must be submitted.	
Resignation	<b>Resignations, as defined in Section 20 of the Civil Service Law, should be in writing and signed by the resigning employee. The Report of Personnel Change (Form MSD-428) should be accompanied by a copy of the signed resignation, as well as relevant facts included in the remarks section.</b> - Information such as a resignation following a leave of absence, or other type of multiple transaction or any type of unusual situation, should be included on the form.	
Retirements	Indicate the effective date of the retirement on the MSD - 428.	
Deceased	Indicate the date which the employee died on the MSD - 428.	

Nature of Personnel Change	Action Required	
Removal	<b>Disciplinary procedures are governed by Section 75 of the Civil Service Law or by the collective bargaining unit agreement.</b> The various provisions and applications of Section 75 provide for a wide range of personnel transactions resulting from disciplinary action. Therefore, it is important for the civil service agency to promptly be informed of any disciplinary actions.	
	As an appointing authority no action should be taken to remove an employee unless the appointing authority has been notified by the Essex County Personnel Officer that it is appropriate to do so.	
Lay-Off	Lay-Off of employees are covered under Rule 24 of the Essex County Civil Service Rules and applicable Labor Agreement.	
	All permanent non-competitive and labor classified employees, shall be eligible for layoff and recall in accordance with the following under terms of the Collective Bargaining Agreement.	
	Appointing authorities should take no action regarding a lay off of employees without asking for direction from the Essex County Personnel Office.	
Military Leave	A leave of absence without pay, not to exceed four years, shall be granted by the County Manager to an employee who is a veteran of the Armed Forces of the United States, provided such a leave of absence is for the purposes 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 days after the termination of his/her courses of study.	
	When a leave of absence is granted by the Appropriate Official, <b>a Report of Personnel Change (Form MSD-428) must be sent to the Essex County Personnel Office</b> . The form should include the relevant facts involving the leave of absence in the remarks section. Necessary documentation should be filed and/or recorded, and the leave of absence should be noted in the employee's roster record.	
Family Medical Leave	The Appropriate Official may grant an unpaid Family Medical Leave of Absence under the Family Medical Leave Act of 1993 up to twelve weeks within a calendar year The employee must submitted a properly executed "Certification of Health Care Provider" and must conform to the terms of the "Employer Response to Employee Request for Medical Leave.	
Personal Leave	A leave of absence without pay may be granted by the Appropriate Official in conformance with the regulations established by the appointing legislative body, provided however, that a permanent competitive class employee may not encumber a permanent competitive class position by a leave without pay while holding a permanent appointment to another position in the civil service of the same municipality.	

Nature of Personnel Change	Action Required	
Demotions	The Appointing Authority should complete the MSD 428 indicating under the remarks the circumstance regarding the demotion, and indicate the change of salary if appropriate.	
	Conditions regarding demotions are governed by the appropriate Labor Agreement applicable to the agency.	
Reinstatements	The conditions for reinstatements are governed by our local civil service rules and are as follows;	
	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 <b>preferred list</b> exists containing the name of an eligible wiling 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 services.	
	Reinstatement following a break in service of more than one year must also satisfy the following additional conditions:	
	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 required successful completion of medical and/or physical agility tests for original appointment, the individual being reinstated must satisfy these criteria immediately prior to reinstatement.	

Nature of Personnel Change	Action Required	
Change In Classification	A Change in Classification must be approved by the Essex County Personnel Officer, submit form ECPO 222. If the position is to be classified into a title which has the exact job description as a current title under Essex County Civil Service rules then a ECPO 222 Short Form may be used in place of the standard 222 form.	
New Position	<b>Submit Completed Form ECPO 222.</b> Once the 222 form is approved by the appropriate parties, then completed copy of the ECPO 222 would be submitted with the MSD 428.	
Change in Salary	Submit Form MSD 428, indicate new salary and attach supporting documentation or note what the change in salary was based on, i.e. Board resolution, contract.	
Change in Name	Submit Form MSD 428, this is required for marriage or divorce that results in a name change.	
Other	Submit Form MSD 428, this is for any other item which may come up. Provide supporting documentation as necessary.	

## **Interview Reference Guide**

It is important that you have a standardized process which can be used for each candidate during the interview. Maintaining a formal process ensures that you will not fall into asking questions which are unrelated to the position. A lack of structure may subject you and Essex County to legal issues if a candidate somehow feels he/she was treated unfairly or was discriminated against in some way.

The following are steps which will help to develop a well planned interview:

#### **Review the job specifications:**

Take the job specifications and look at the essential job duties and responsibilities, keeping in mind what it is that you as the appointing authority are looking for in an employee.

#### **Develop a list of standard questions:**

After reviewing the job description and considering what is important for you as the appointing authority develop a standard list of questions. Once you decide on these questions you should develop a questionnaire sheet for the interview leaving blank spaces after each question where you can make notes and record the response of the candidate.

You should put together an information package for each candidate which has that persons application, resume and an attached questionnaire sheet. It is easier to review the candidates qualifications if it is altogether with your questions.

It is important to ask each of the candidates the same set of standard questions and to record their answers to those questions. If you are accused of discrimination later on, you will be able to show that you asked everyone the same set of questions and treated everyone fairly.

#### **Choose an Interview Team:**

If possible, interviews should be conducted by at least two people. Having more than one person in the room during the process avoids issues related to "their word against yours".

#### Maintain an Interview File:

You should have a separate file for each position that you interview for. This file should contain a copy of the packet you used for all of the candidates during the interview, with the documented responses. You can not be certain when someone may come back and complain that they were treated unfairly. Maintaining this file and having it available will allow you to have the correct answers when and if you need them.

#### **Opening the Interview:**

When opening the interview be careful not to give the candidate too much information concerning what you as the appointing authority are looking for in the position. Save those comments for the closing of the whole interview process.

#### **Conduct second interviews:**

Be willing to conduct a second round of interviews, often candidates who may not have been as strong in the interview as you would have expected, do better at the second interview. Conversely, candidates who appeared strong the first time may not do as well the second time. However, if you choose to conduct a second interview make certain you follow the same strict standards as you used in the first round. If your plan is to have two rounds of interviews, then save a second set of standard questions for that round, and

make the questions in the second round more difficult.

#### Be careful how you ask questions:

Too often interviewers will answer questions as they are asking them. If the candidate doesn't understand the question then be careful how you explain it to them, you want them to be able to show that they can think for themselves. We will have a section in this guide which deals with common interview questions which may be helpful in putting together standard questions.

#### **Check references:**

Before making a final selection it is important to check references. This guide will have a suggested form for use in making these reference calls. Go beyond the named references in a resume. On our application forms we ask that they provide their work history and we ask for immediate supervisors for those positions. If you do not see those immediate supervisors in the reference list it may be interesting to find out why.

### **Common Interview Questions**

As I mentioned in the section above, all too often interviewers answer questions as they ask them. Also, try to avoid asking question which only require the candidate to restate the question in different words. Some examples of these kinds of questions and suggested alternatives are provided below:

- Common Question: Can you handle problems or stress in your job?
- Alternative: Describe a time when you were faced with problems or stresses at work that tested your coping skills. What did you do?
- Common Question: Do you feel preparation is important?
- Alternative: Give an example of a time when you could not participate in a discussion or could not finish a task because you did not have enough information.
- Common Question: Can you make quick decisions?
- Alternative: *Give an example of a time when you had to be relatively quick in coming to a decision.*
- Common Question: *Do you have good spoken communication skills?*
- Alternative: Tell me about a time when you had to use your spoken communication skills in order to get a point across that was important to you.
- Common Question: Are you able to be forceful when needed?
- Alternative: Can you tell me about a job experience in which you had to speak up and tell other people what you thought or felt?
- Common Question: Are you able to motivate coworkers?
- Alternative: Give me an example of when you felt you were able to build motivation in your coworkers or

subordinates.

- Common Question: *Can you follow policies even when you do not agree with them?*
- Alternative: *Tell me about a specific occasion when you conformed to a policy even though you did not agree with it.*
- Common Question: Are you attentive to your work?
- Alternative: Describe a situation in which you felt it necessary to be very attentive and vigilant to your work environment.
- Common Question: *Are you a problem solver?*
- Alternative: Give me an example of a time when you used your fact finding skills to gain information needed to solve a problem, then tell me how you analyzed the information and came to a decision.
- Common Question: Can you achieve goals?
- Alternative: *Give me an example of an important goal you had to set, and tell me about your progress in reaching that goal.*
- Common Question: Do you have good writing skills?
- Alternative: Describe the most significant written document, report or presentation that you've completed.
- Common Question: *Are you willing to go above the call of duty when necessary?*
- Alternative: *Give me an example of a time when you had to go above and beyond the call of duty in order to get a job done.*
- Common Question: *Are you able to get along with your co workers?*
- Alternative: Give me an example of a time when you were able to communicate successfully with another person, even when that individual may not have personally liked you.
- Common Question: Are you sensitive to other people?
- Alternative: Describe a situation in which you were able to read another person effectively and guide your actions by your understanding of his/her individual needs or values.
- Common Question: Are you an organized person?
- Alternative: What did you do in your last job in order to be effective with your organization and planning? Be specific.

- Common Question: Are you a creative person?
- Alternative: Describe the most creative work related project you have completed.
- Common Question: Are you flexible?
- Alternative: Describe a time when you felt it was necessary to modify or change your actions in order to respond to the needs of another person.
- Common Question: Are you capable of analyzing your work tasks?
- Alternative: *Give me an example of a time when you had to analyze another person or situation carefully in order to be effective in guiding your action or decision.*
- Common Question: Are you a team player?
- Alternative: What did you do in your last job to contribute toward a teamwork environment? Be specific.
- Common Question: Are you a problem solver?
- Alternative: *Give me an example of a problem you faced on the job, and tell me how you solved it.*
- Common Question: Do you have a positive attitude?
- Alternative: Describe a situation in which you were able to positively influence the actions of others in a desired direction.
- Common Question: *Do you deal well with the public?*
- Alternative: Tell me about a situation in the past year in which you had to deal with a very upset customer or member of the public.
- Common Question: Are you dependable?
- Alternative: Describe a situation in which others within your organization depended on you.
- Common Question: *Do you work well with a group?*
- Alternative: *Describe your most recent group effort.*
- Common Question: *Are you able to handle conflict with coworkers?*
- Alternative: *Describe the worst coworker you have ever had and tell me how you dealt with him or her.*

## Pre-Employment Questions

The following chart represents a general guide to help interviewers distinguish from legal and illegal inquires when seeking information during the interview process. Generally speaking, any question not job related may be unlawful if the information obtained is used in a discriminatory manner.

SUBJECT	DO NOT ASK	YOU MAY ASK
Sex	Are you male or female? What are the names and relationships of persons living with you?	None.
Residence	Do you own or rent? Give the names and relationships of persons residing with you?	What is your present address?
Race/Color	What is your race? What color is your hair, eyes or skin?	None.
Age	What is your date of birth? How old are you?	If hired, can you provide proof that you are at least 18 years of age? (Ask only if minium age limits are established for the position.)
National Origin	What is your ancestry, national origin, descent ancestry, parentage or nationality? What is your native language? What is the nationality of your parents or spouse?	What languages do you speak or write fluently? (Do not ask unless strictly job related.)
Marital or Family Status	What is your martial status? What is your spouse's name? What was your maiden name? How many children do you have? Are you pregnant? Do you plan to have children? What day-care provisions have you made for your children?	None. (An employer may ask if candidates have any commitments or responsibilities that might prevent them from meeting attendance requirements, or if they anticipate lengthy work absences. Make sure you ask this question of all of the applicants.)

SUBJECT	DO NOT ASK	YOU MAY ASK
Arrests and Convictions	Have you ever been arrested? Have you ever been charged with any crime?	Have you been convicted of any crime? (If the application form asks for information on convictions, the employer should indicate that a conviction itself does not constitute an automatic bar to employment and will be considered as it relates to fitness to perform the job in question.)
Religion	What is your religious affiliation or denomination? What church do you belong to? What is the name of your pastor, minister, or rabbi? What religious holidays do you observe?	None. ( If you wish to know if an applicant is available to work Saturday or Sunday shifts, ask "Are you available to work on Saturdays or Sundays if needed?" Make sure you ask this question of all applicants.)
Disabilities	Are you disabled?	Are you capable of performing the essential function of this position, with or without reasonable accommodations? (Unless this is critical information to the position, it would be better to not ask any questions related to disability, Additionally, if you ask this question of one candidate you should ask it of all of the candidates.)
Citizenship	Of what country are you a citizen. Are you or other members of your family naturalized citizens? If so when did they become a U.S. citizen? Attach a copy of your naturalization papers to your application form.	Are you a citizen of the United States. If hired, are you able to prove eligibility to work in the United States?

## Preparing for Reference Calls

There is no set method as to when or who should make reference calls. It really depends on your personal preference, some interviewers want to know as much about all of the candidates as they can prior to conducting the interviews. Other interviewers would rather not be influenced by someone else's opinion until they have narrowed the field.

As to the issue regarding who should make the call, in my view it should be the appointing authority. The truth is that when speaking with someone regarding these kinds of issues it is not always what is said but rather how it is said that makes a difference. The only way for an appointing authority to get a sense of that is to speak directly to the reference. In my view it is not wise to have someone else trying to interpret the sense of the call for an appointing authority.

It is important to maintain a standardized form for these calls in order to be able to prove that all candidates where

treated the same. If you decide to reject a candidate on the basis of a reference call then it is important to have that information documented. The attached <u>*Telephone Reference Form*</u> should be used for these calls. Additionally, the following steps should be used when checking references:

- Call the references and introduce yourself.
- Indicate the reason why you are calling.
- Explain that you have a series of standard questions to ask related to the applicant.
- Indicate about how long it generally takes to complete the questions.
- Ask if they have some available time now or if another time would be better.
- Ask if anyone else acted as an immediate supervisor who may be able to provide information related to this applicant.
- Thank them for their help.

### Selecting a Candidate

Once you have completed the interview process, it is important to give the applicants information as to what is going to happen next. If you are making your reference calls after the interview then inform the candidates that you need to check the references before making a final selection.

Be certain to give a time frame to the applicants for the selection of a final candidate. If it looks like you are not going to be able to make a selection within that time frame make certain you contact the candidates to let them know the reason why you had to extend the time. It is important to keep in mind that you are dealing with a very important part of the candidates life. If you fail to be timely you risk losing your candidate.

Be careful to select a first, second or third choice if possible. Simply because you offered a position that does not mean that candidate will accept your offer.

Be certain to send out letters to the candidates that were not selected as soon as you know you will not be offering them the position.

## Conclusion

This guide is intended as an overview of the aspects of Civil Service compliance issues and is to be used by Appointing Authorities as a reference guide. Generally speaking it should enable those you work with the Civil Service System to have some sense of how the process should be handled. For any questions or for details related to this guide please contact the Essex County Personnel Office for assistance.

The information contained within this document was taken from a number of State Civil Service Reference Manuals as well as information contained within the Essex County Personnel Office.