



A Library Worker's Guide to Civil Service in New York State

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INTRODUCTION

The purpose of this publication is to provide guidance to current and prospective public library staff members with those aspects of Civil Service Law which most affect them. Employees of municipal public libraries, school district public libraries, and special district public libraries and public academic and school libraries in New York State are public employees and as such are subject to civil service. Employees of association libraries and some library systems are not. Each library's charter will indicate its status as either public or association.

The New York State Department of Civil Service administers Civil Service Law for state departments and agencies including the New York State Library. For institutions other than state service, the Civil Service Law is locally administered, by the county, city, school district or town. Each municipal civil service agency administers the law for the civil divisions under its jurisdiction, including public libraries, schools, villages, water districts etc.

There can be many variations between the local rules of civil service agencies. Some important variations include the existence of or duration of residency in the jurisdiction prior to taking an exam, continuous recruitment of titles and canvass procedures. Always check with the local civil service agency to determine local rules that may affect your candidacy for a position.

Be mindful that your career is involved when dealing with civil service. Filling out forms completely, filing for examinations on time and making sure that you have done what is required to meet the qualifications is your responsibility.

Many of the terms used in this document are defined in the Glossary of Civil Service Terms, available from NYLA.

CIVIL SERVICE CLASSIFICATION

Civil Service Law recognizes two broad classes of jobs, those in the unclassified service and those in the classified service.

- The **unclassified service** consists largely of elective positions, heads of government agencies, teachers, employees of the legislature and a few others.
- The **classified service** is divided into four classes of positions known as the competitive class, non-competitive class, exempt class and labor class.

The **competitive class** is the core of civil service; positions are filled in accordance with the principles of merit and fitness through competitive examination. Librarian I and Library Clerk are examples of competitive titles. It is the class of civil service jobs which provides due process in removal and other disciplinary actions for permanently appointed job holders under Civil Service Law, Section 75.

Most full-time and some part-time positions in public libraries are in the competitive class. To secure a permanent appointment to a competitive position, an applicant must:

1. Meet the minimum qualifications prescribed for the position;
2. Compete in the examination for that position (in some jurisdictions, residency is required to take the examination);
3. Obtain a passing score and be reachable on the eligible list; and
4. Successfully complete the prescribed probationary period.

The **non-competitive class** consists of jobs which have minimum qualifications but for which competitive examination is determined to be not practicable. Carpenters and Display Artists are examples of non-competitive class jobs. There are no lists of candidates for non-competitive jobs.

After five years of continuous permanent service, non-competitive employees may acquire protection under Section 75 unless the position has been designated “confidential/policy-influencing” in the appendices of the local civil service agencies’ rules. In addition, some part-time jobs may be placed in the non-competitive class. Refer to the appendices of your local agency for information on which positions are non-competitive.

In a small number of jurisdictions, the Library Director position is in the non-competitive class.

The **labor class** consists of jobs which involve unskilled labor. Cleaner and Page are two examples of titles in this class. There are no lists of candidates for labor class jobs.

The **exempt class** generally consists of those jobs in which the incumbent serves at the pleasure of his/her appointing authority. Exempt class jobs have no tenure protection associated with them. Civil Service Law, Section 41 defines the specific kinds of jobs which may be placed in this class. Clerk to the Board and Library Treasurer are two examples of titles in this class. There are no lists of candidates for exempt class jobs.

NON-COMPETITIVE CLASS/ PART-TIME PROFESSIONAL POSITIONS

Some public libraries employ part-time librarians. Positions in competitive titles may be filled on a part-time, non-competitive basis only if the part-time position has been approved as non-competitive by the local civil service agency.

If a part-time position is in the non-competitive class, an applicant who meets the minimum qualifications for the position may be appointed without competitive examination. Rules governing the limits on part-time appointments are determined by each local civil service agency. These rules vary so the rules of the applicable jurisdiction should be consulted for details.

There are some disadvantages to holding a part-time position non-competitively. The non-competitive part-time employee is ineligible to compete in promotional examinations. Civil Service favors promotion from within, therefore, it may be difficult for non-competitive class part-time librarians to advance to higher level, permanent positions within their library. Another disadvantage is that if the library desires to convert a part-time non-competitive position to a full-time position, that position must be filled competitively, i.e. by someone who is reachable on the appropriate eligible list. This may or may not be the same person who held the position when it was part-time. It is recommended that a part-time non-competitive employee take the available competitive examination to ensure placement on the eligible list, should a vacancy arise.

EXAMINATIONS: OPEN-COMPETITIVE & PROMOTIONAL

There are two broad classes of examinations - open-competitive and promotional.

- **Open-competitive examinations** are open to anyone meeting the education and experience qualifications which are required for the position. There may also be a residency requirement. One need not be currently employed by the public library to compete in such examinations.
- **Promotional examinations** are generally offered only to employees who have permanent competitive status for a specified period of time in a position in direct line of promotion in the particular library or department where the vacancy exists.

Examinations are sometimes offered both open-competitively and promotionally. In such cases, the promotional list for a library must be used first to fill vacancies. If the promotional list contains the names of fewer than three persons willing to accept appointment, an open-competitive list may be used to make an appointment.

If there is no promotional list for a library, the library must use the open-competitive list if there are three or more persons on the list willing to accept appointment. For this reason, when an examination is offered both open-competitively and promotionally, applicants may find it advantageous to file for both examinations, provided that they meet both sets of minimum qualifications. Such individuals effectively take only one test, but must file applications for both examinations and pay separate application fees, if required by the jurisdiction.

All civil service examinations are announced in an official announcement. Candidates must consult examination announcements to determine the subject of examination to be given and the type of test to be used.

An examination consisting of an evaluation of **Training and Experience (T&E)** is most often used for professional librarian titles. This technique consists of a systematic evaluation of the education and work experience of each applicant against a pre-determined scale, which is developed based on the duties and critical knowledge, skills and abilities of the position to be filled. Each civil service agency may set their own pre-determined scale upon which to evaluate candidates. It is not uniform statewide. When competing in a T&E examination, provide detailed information, including a clear description of all previous jobs and the inclusive dates of each job. Vagueness on an application or questionnaire for a T&E

evaluation may result in some element of an applicant's background being rated lower than it would if it were described in detail or may be awarded no credit.

Clerical titles are most often subject to **written examinations**. These exams consist of short-answer or multiple choice questions that are designed to evaluate the practical skills and knowledge necessary for the position.

Be certain to read and follow the instructions on the published announcements for the test you plan to take. Unless an examination is held on a continuous recruitment basis, filing dates are governed by the announced deadline for filing. Examinations for Librarian I and II are most often announced as needed by municipal civil service agencies. Inquiry should be made to determine where, besides the local civil service office, announcements will be made available. Most jurisdictions will not accept applications filed before the examination announcement is issued. If a jurisdiction does accept pre-filing, your application would be kept on file until the announcement is issued for that title. You would then be notified of any additional requirements you must fulfill, such as updating your application or completing a questionnaire, or paying an application fee. Be sure to notify the civil service agency if your address changes while you have an application on file for any examination.

FEES

In most jurisdictions, fees are charged to apply for an examination. Consult your local civil service agency.

APPOINTMENTS

When a library wishes to fill a vacancy in a competitive class position, the library contacts the jurisdiction's civil service agency to determine if there is an eligible list for the title. If there is, the library requests a certification of the eligible list. The list will provide names of candidates ranked by their score from high to low. Depending upon the rules of the local civil service agency, a library has a maximum period of thirty to sixty days from the certification's issue date to make its final decision regarding appointment.

Civil service may canvass a list before a certification of eligible list is issued to determine interest in a vacancy. However, in many jurisdictions, the library will be responsible for the canvass of the list.

According to the Civil Service Law, an appointing authority seeking to make an open-competitive appointment may give preference in appointment to legal residents of the jurisdiction. If the list contains fewer than three legal residents, the full eligible list must be used.

A promotional list containing the names of at least three individuals willing to accept the appointment must be used before an appointment can be made from an open-competitive list.

If you receive a canvass letter, it is important that you respond in a timely manner or you will be removed from the list. A candidate may decline a position for the reasons listed on the canvass letter or other reasons acceptable to the civil service agency without penalty. Detailed rules on declinations and their

effect on eligibility for future appointment are contained in each municipal civil service agency's rules. There are variations so it is important that you are knowledgeable about the applicable rules.

RULE OF THREE

The "Rule of Three" plays an important part in the appointment process. It states that an appointing authority may choose to appoint any one of the three highest scoring eligibles, including ties, who are willing to accept the appointment. In exercising the Rule of Three, an appointing authority may use any legal selection criteria for ranking individuals with tie scores. For example, each individual with a score of 100 may be ranked alphabetically on the list, however, this ranking does not affect their score when applying the rule of three. The following graphic is helpful in explaining this complex procedure.

The Rule of Three



How do you determine who is reachable for appointment?

Count down 3 NAMES from the top of the list. Everyone RANKED ABOVE or TIED in score with the THIRD candidate is REACHABLE.

May I appoint anyone in the TOP 3 SCORES?

NO!! Only people ranked above or tied in score with the THIRD CANDIDATE FROM THE TOP OF THE LIST

Example 1	Score	WHO IS REACHABLE FOR APPOINTMENT?
1 Julia	100	
2 Sal	95	<i>Julia, Sal, Linda</i>
3 Linda	90	
4 Horace	85	If Sal declines, who is reachable? <i>Julia, Linda, Horace, Khafir,</i>
5 Khafir	85	<i>Joe</i>
6 Joe	85	
7 Carey	80	
Example 2	Score	WHO IS REACHABLE FOR APPOINTMENT?
1 Paula	90	
2 Karen	90	<i>Paula, Karen, & Jim</i>
3 Jim	90	
4 Taylor	85	What if Taylor had a 90 too? <i>reachable</i>
5 Luis	85	
6 Pat	85	If Karen declined, who is reachable? <i>Paula, Jim, Taylor, Luis,</i>
7 Doug	80	<i>Pat</i>
Example 3	Score	WHO IS REACHABLE FOR APPOINTMENT?
1 Pedro	90	
2 Will	90	<i>Pedro, Will, Lori, Marie, Dan, Jill</i>
3 Lori	85	
4 Marie	85	If Pedro and Will declined appointment would Tammy be
5 Dan	85	reachable? <i>No</i>
6 Jill	85	
7 Tammy	80	If Lori, Marie, Dan and Jill declined, would Tammy be
		reachable? <i>Yes</i>

TYPES OF APPOINTMENTS

Temporary

Libraries, like other jurisdictions, occasionally have the need to make temporary appointments. As the term implies, temporary appointments are for a specific period of time such as weeks, months, six months, etc. There are three primary categories of temporary appointments:

1. Appointments for up to three months. The employee need not be appointed from the eligible list, but the appointment is subject to the approval of the local civil service agency and an appointee must meet the minimum qualifications established for the position. This type of appointment is meant to address an emergency situation.
2. Appointments for a period exceeding three months but less than six months. The employee must be appointed from the eligible list, if one exists, but the candidate's rank on the list may be disregarded. This is also subject to local civil service approval and meant to address an emergency situation.
3. Appointments for more than six months. Temporary appointments must be made from the appropriate eligible list, just as they are made for permanent appointments. Successive temporary appointments to the same position are prohibited.

Temporary appointments never mature into permanent appointments and time served as a temporary appointee does not count toward meeting the minimum qualifications for competing in a promotional examination. For these reasons, the names of the candidates who accept temporary appointments remain on the eligible list, so they may be considered for any permanent appointments that develop while they are temporarily employed. For titles using “on-going” examinations, it is important for temporary appointees to reapply for examination in a timely manner as necessary to ensure their name remains on the list. Consult New York State Civil Service Law, Section 64 for further information on this topic.

Permanent

A permanent appointment is made when the library has a vacant, budgeted position. All permanent appointments from an open-competitive list are subject to a probationary period which varies by jurisdiction. Most permanent appointments from a promotional list are also subject to a probationary period which varies by jurisdiction. The name of the candidate who accepts a permanent appointment is removed from the eligible list from which she/he was appointed.

Contingent Permanent

A contingent permanent appointment is a type of appointment that may be made when a competitive position is temporarily vacant by the leave of absence of the permanent incumbent. There are variations in local civil service agency rules on contingent permanent appointments and not every local civil service agency permits this type of appointment.

Contingent permanent appointments may be subject to the same probationary period specified for permanent appointments. If a probationary period is completed, the contingent permanent appointee may be removed from the position only by the return of the encumbering employee, a layoff, or through a disciplinary (Section 75) proceeding. The name of an employee who accepts a contingent appointment

may remain on the eligible list so he/she may be considered for other permanent positions. For titles using “on-going” examinations, it is important for contingent appointees to reapply for examination in a timely manner as necessary to ensure their name remains on the list. When a position filled by a contingent permanent appointment becomes unencumbered, the contingent appointee may immediately gain permanent competitive class status in the class if the required probationary period has been satisfactorily completed.

Provisional Appointment - Open-Competitive or Promotional

A provisional appointment may be made when there is no eligible list for a competitive class title, or there are fewer than three individual willing to accept appointment on the list. A provisional appointment is intended to be a temporary measure to fill the position only until the next eligible list is established. The person appointed must meet the minimum qualifications for the position and be approved by the local civil service agency. Provisional appointees do not have Section 75 protection and may be dismissed at any time during the provisional term. If the employee holds permanent competitive status in another title in the same library he/she may be able to revert to that title voluntarily or upon termination from the provisional position.

TRANSFERS & REASSIGNMENTS

The term **transfer** generally means the change without further examination of a permanent employee from one appointing authority/library to the same or similar position under a different appointing authority. Not all civil service agencies allow for transfers between appointing authorities, so be sure to start by asking that question.

Transfers are not “automatic” in any sense. You cannot transfer into a higher level position i.e. Librarian I to Librarian II, and no appointing authority is obliged to accept employees from another appointing authority.

A transfer cannot take place when a preferred list exists. A promotional list with the names of three or more eligibles will also preclude a transfer. Consult the New York State Civil Service Law, Section 70.1 and applicable local civil service rules for more detailed information on transfers.

Moves between similar positions in the same title under the same library are **reassignments**. The power to reassign is vested solely in the library. Collective bargaining agreements may have provisions related to an employee’s and management reassignment rights.

JOB PROTECTION

Section 75 of the Civil Service Law provides due process in removal and other disciplinary actions to every post-probationary permanent or contingent permanent employee in a competitive class job. It also provides protection for veterans and exempt volunteer firemen (as defined by Section 85 of Civil Service Law and General Municipal Law, respectively) regardless of their titles. An employee who has Section 75 protection can only be removed from his/her job after a hearing at which the employee must be proved guilty of misconduct or incompetence. Library collective bargaining agreements may modify Section 75 disciplinary procedures.

Employees who have been permanently appointed in a non-competitive class position and have at least five years of continuous service may be protected under Section 75 unless they are serving in non-competitive positions which the civil service agency has designated as "confidential" or those that "require the performance of functions influencing policy," pursuant to Section 42(2-a).

Sections 72 and 73 deal with an employee's rights to medical examinations, hearings, and reinstatement when the employee has been or may be placed on involuntary leave of absence or separated due to mental or physical inability to perform his/her duties. This is a complex subject; it is recommended that Sections 72, 73, and 75 of the Civil Service Law be read and the civil service agency be contacted for additional information.

LAYOFFS

If there is a reduction in workforce that applies to positions in the competitive class, Section 80 of the Civil Service Law and the local civil service agency's rules on layoffs govern the layoff process. Competitive employees serving probation shall be displaced before permanent competitive employees holding the same or similar position. Section 81 of the Civil Service Law provides certain reemployment rights for permanent competitive employees who have been laid off.

Retention rights are comprised of two essential components: status and seniority. Status refers to whether the employee is permanent and has completed the required probationary period; permanent but serving a probationary period at the time of layoff; contingent permanent (if provided for by local civil service rules); provisional or temporary. Seniority is the date of the employee's original permanent appointment in the classified service of the government jurisdiction in which the abolition of the position occurs with continuous service since that date.

Under certain circumstances, credit for prior service with other government employers may be allowed by local civil service rules. The statutory definition of continuous service allows for specified types of brief breaks without loss of continuity. The seniority date is adjusted, however, for war veterans (who get 30 months additional seniority) and disabled war veterans and the spouses of disabled war veterans with 100% service connected disability (who get 60 months additional seniority).

An employee laid off from a position to which there is a direct line of promotion has the option to displace the least senior incumbent of the next lower level occupied position provided that the laid off employee has greater retention rights. This process is known as bumping. A direct line of promotion is defined as those titles with a common root, i.e. Librarian I, Librarian II. An employee who elects not to bump is laid off and his/her name entered on an appropriate preferred list.

There are other sections of Civil Service Law which provide special considerations for blind employees, war veterans, spouses of disabled war veterans and exempt volunteer firefighters. Union contracts may contain certain provisions that apply to the layoff of non-competitive employees in public libraries.

The layoff process, including employee retention rights is complex. Should there be a reduction in workforce, the local civil service agency will work closely with the library to administer the layoff process. Questions about the process, an individual employee's status and reemployment rights should be directed to the civil service agency with jurisdiction.

ADDITIONAL RESOURCES

Questions & Answers about Municipal Civil Service Examinations

<http://on.ny.gov/1VdcZeU>

How to Take a Written Test for State Civil Service Examinations

<http://on.ny.gov/1XvsZrq>

Glossary of Civil Service Terms

<http://bit.ly/2fANpDQ>

NYLA Personnel Administration Committee, December 1996

Carol Clingan, Debbie Friedman, Richard Naylor, Myron Roohvarg, Virginia Vogl, Kristin Weltzheimer.

NYLA Civil Service Task Force, November 2016

Susan Currie, Claudia Depkin, Jeannine Doyle, Mary Beth Farr, Ewa Jankowska, Jeremy Johannesen, Geoffrey Kirkpatrick, Tom Lawrence, Lauren Moore, Evelyn Neale, Chris Sagaas, Robert Schofield.