

## **A Librarian's Guide to Civil Service in New York State**

A publication of the NYLA Library Administration and Management Section in consultation with the New York State Department of Civil Service.

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### A LIBRARIAN'S GUIDE TO CIVIL SERVICE IN NEW YORK STATE

This publication is primarily intended to acquaint public librarians with those aspects of Civil Service which most affect them. Readers are cautioned that this is a summary of selected aspects of Civil Service Law and Rules. This publication does not supersede the Civil Service Law, the Rules of the applicable municipal Civil Service agency or the Rules of the New York State Civil Service Commission, but rather is written to reflect the substance and nature of these other sources at the time of this writing. 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.

### CIVIL SERVICE CLASSIFICATION

Employees of public libraries in this state are public employees and as such are subject to Civil Service. Employees of association libraries and most systems are not. Each library's charter will indicate its status as either public or association.

The 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 categories of jobs known as the competitive class, noncompetitive class, exempt class and labor class.

The competitive class is the core of the career service. It is characterized by competitive examinations, the foundation upon which the competitive class rests. It is the class of Civil Service jobs which provides due process (Civil Service Law, Section 75) in removal and other disciplinary actions for permanently appointed job holders. The noncompetitive 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. After five years of continuous permanent service, noncompetitive employees may acquire Section 75 protection unless the position has been designated confidential/policy influencing in the local Civil Service Rule Appendices. In addition, some part-time jobs may be placed in the noncompetitive class.

The labor class consists largely of jobs which involve manual labor. 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. The Civil Service Law (Section 41) defines the specific kinds of jobs which may be placed in the exempt class. The two exempt class positions most frequently found in libraries are Library Attorney and Library Treasurer.

The New York State Department of Civil Service administers Civil Service law for state departments and agencies including the New York State Library. For other than state service The New York State Civil Service Law is locally administered, by either the county, city or town. Each municipal Civil Service agency administers the law for the civil divisions under its jurisdiction, including library districts, schools, villages, water districts etc. (Libraries chartered as association libraries do not come under Civil Service law)

Full-time and some part-time Civil Service professional librarian positions in public libraries are in the competitive class. (In a small number of jurisdictions, a Director position is in non-competitive class) To secure a permanent appointment to a competitive position, an applicant must

meet the minimum qualifications prescribed for the position, compete in the examination for that position, (in some jurisdictions, residency is required to take the examination)

obtain a passing score and be reachable on the eligible list which is established from the examination

be officially appointed from the eligible list.

successfully complete the prescribed probationary period

For other than entry level positions of Librarian Trainee or Librarian I, there may be promotional examinations offered. Promotion examinations are open only to employees of the public library where the vacancy exists who meet the qualifications established by the Civil Service agency for the promotion to a higher level position. More will be said about these kinds of examinations in the next section.

Some public libraries may 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 action of the New York State Civil Service Commission subsequent to a rules resolution by the municipal 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 contained in the rules of each municipal Civil Service agency. These rules vary so the applicable jurisdiction rules should be consulted for details. One disadvantage, however, of such an appointment is that the non-competitive part-time employee is ineligible to compete in promotional examinations.

Since the Civil Service system is a career system based upon a policy of promotions from within, it may be extremely difficult for non-competitive part-time librarians to advance to more responsible 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.

#### 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 a public library to compete in such examinations. Promotional examinations are generally offered only to the jurisdiction's public library employees who have permanent competitive status in the cited lower title in a particular library for at least the specified period of time.

Examinations are sometimes offered both open-competitively and promotionally. In such cases, the promotional list for a library must be used first to fill the 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 (because no one from the library filed for or was eligible to take the promotional examination or because those who took the promotional examination have been appointed or failed the examination), then the library must use the open-competitive list if there is one with three or more persons willing to accept appointment to fill vacancies in that title. 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 fees are 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 evaluation 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 job classification to be filled. The important point to remember, when competing in a training and experience evaluation, is to provide detailed information, which includes a clear description of all previous jobs and the inclusive dates of each job. Vagueness on an application or questionnaire for a training and experience evaluation will not be interpreted in the candidate's favor. As a result of vagueness, some element of an applicant's background may be rated lower than it would if it were described in detail. In some instances a vague job description may receive no credit.

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 Civil Service if your address changes while you have an application on file for any examination.

In most jurisdictions, fees are charged to apply for an examination.

#### 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. Depending on the policy of the Civil Service agency, this certification of eligibles will include some or all passing candidates shown in rank order, from highest to lowest. Alternatively, only the names of sufficient numbers of eligibles needed to fill the vacancy may be certified. Depending upon the rules of the Civil Service agency, a library has a maximum period of either thirty or sixty days from the certification's issue date to make its final decision regarding appointment.

Civil Service may canvass a list before a certification is issued to determine interest in a vacancy. However, in some 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, if one exists for the specific library containing the names of at least three acceptors, must be used before an appointment can be made from an open-competitive eligible 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. If you receive a canvass letter, it is important that you respond on a timely basis.

#### RULE OF ONE OF THREE

The rule of one of three, provided for by Civil Service Law, or simply the "rule of three" as it is often called, plays an important part in the appointment process. The rule of three 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. The interview is an important tool used by appointing authorities in making their one of three selection. For this reason, candidates should regard the interview as an important part of the selection process.

## TYPES OF APPOINTMENTS

### TEMPORARY

Libraries, like other jurisdictions, occasionally have the need to make temporary appointments. As the term implies, temporary appointments are for specific terms, such as day, week, month, 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 list, but the appointment is subject to Civil Service approval 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 not exceeding six months. The employee must be appointed from the list, if one exists, but the candidate's rank on the list may be disregarded. This is also subject to Municipal Civil Service approval and to address an emergency situation.
- (3) Appointments for more than six months. Temporary appointments must be made from the appropriate list 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 exam. 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. The reader should consult Section 64 of New York State Civil Service Law 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 eligible list, are subject to a probationary period which varies by jurisdiction. Most permanent appointments from a promotional eligible list are also subject to a probationary period that differs from jurisdiction to 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 Civil Service agency rules on Contingent Permanent appointments. Not every local Civil Service agency has a rule providing for a contingent permanent appointment. Contingent permanent appointments may be subject to the same probationary period specified for permanent appointments. However, 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 lay-off, 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. 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. For how this type of appointment applies to a particular situation, readers are advised to consult the Civil Service agency for exactly how this works in the jurisdiction they are appointed.

### 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 willing acceptors on such a list. A provisional appointment is intended to be a temporary measure to fill the position only until the next eligible list is established. Each provisional appointment must be individually approved by the 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. The person appointed must meet the minimum qualifications for the position .

### TRANSFERS

The term "transfer" generally means the change without further examination of a permanent employee from a position under one appointing authority to a similar position under a different appointing authority. Transfers are open to persons with permanent competitive status. Moves between similar positions in the same title under the same appointing authority are "reassignments." The power to reassign is vested solely in the appointing authority. (Read Section 70.1 of the New York State Civil Service Law and applicable Civil Service rules for more detailed information on transfers.)

All transfers are subject to the provisions of the Civil Service Law and the Rules of the Civil Service agency that administers Civil Service for the receiving library. Transfers are not "automatic" in any sense.

The individual seeking transfer must first locate an appropriate vacancy. The Civil Service Department does not provide listings of vacancies.

The best way to locate a vacant position is to contact the appointing authority for the library or libraries where you would like to work. We suggest that you send each library a resume and a letter stating that you wish to transfer into the library and indicate the title in which you hold permanent competitive status. Remember, you cannot transfer into a higher level position i.e. Librarian I to Librarian II. Bear in mind also that no agency is obliged to accept employees in a transfer.

Once you have located a library interested in allowing you to transfer in, you must determine the transfer procedures that govern. Contact should be made with the Civil Service agency that administers Civil Service for the library to determine the Civil Service Rules that apply and what information you need to supply.

A transfer cannot take place in the face of a preferred list. The existence of a promotional list with the names of three or more eligibles will also preclude a transfer. Transfers are best approached case-by-case, and the would-be employee should call Civil Service for the specific requirements applicable to each situation.

## 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 be removed from his/her job only 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.

Persons who have been permanently appointed in a noncompetitive 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 force that applies to positions in the competitive class, Section 80 of the Civil Service Law and the Civil Service agency's rules on layoffs govern the layoff process. Permanent competitive employees have certain rights prescribed in Section 80 of the Civil Service Law and the aforementioned rules. 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 is 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 certain 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 force, the municipal 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.

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