

# Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY  
REVIEW COMMISSION**

**RECEIVED**

Independent Regulatory  
Review Commission

July 11, 2024

IRRC Number: 3412

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: **Office of Administration (OA)**

(2) Agency Number: **99**

Identification Number: **13**

(3) PA Code Cite: **4 Pa.Code §§ 608.1-615.29**

(4) Short Title: **Civil Service Reform Regulations**

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: **Joshua Fisher, 717-783-2590; joshufishe@pa.gov**

Secondary Contact: **Anthony R. Holbert, 717-783-2590, aholbert@pa.gov**

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

Pursuant to the Act of June 28, 2018, P.L. 460, No. 71, commonly referred to as the "Civil Service Reform Act," OA is tasked with administering the Commonwealth's merit system of employment, known as the Classified Service. To that end, the Civil Service Reform Regulations establish the regulatory structure governing application to, and employment in, civil service positions, as well as practice and procedure before the Secretary of Administration.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The proposed regulation is created under the authority granted to OA by 71 Pa.C.S. § 2203(a), which provides, "The Office of Administration may promulgate regulations necessary to carry out the provisions of this part."

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The proposed regulation is not mandated by any federal or state law or regulation or court order. The proposed regulations are permitted under Section 2203(a) of the Civil Service Reform Act, 71 Pa.C.S. § 2203(a), which provides that "[t]he Office of Administration may promulgate regulations necessary to carry out the provisions of this part."

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The proposed regulation is needed to provide clear and comprehensive guidance to applicants, employees, and appointing authorities regarding the processes and rules governing application to, and employment in, Classified Service positions. While the Civil Service Reform Act provides a foundation for administration of the Classified Service, it does not address granular processes, procedures, and requirements, thus necessitating regulatory direction from OA. Moreover, the act defers several topics to the discretion of OA. For example, Section 2502(c) of the Civil Service Reform Act, 71 Pa.C.S. § 2502(c), allows for the transfer and reassignment of employees but does not set forth how such personnel actions shall occur. Instead, the act provides, “Transfers and reassignments shall be accomplished in a manner prescribed by the Office of Administration.” *Id.* Similarly, the act permits for voluntary demotions but does not establish the specific process by which employees can request a voluntary demotion. *Id.* § 2503(b). Finally, the act requires employees to serve probationary periods after being promoted but defers the length of such periods to the discretion of OA. *Id.* § 2404(a)(2). To ensure consistency and clarity in OA’s administration of the Classified Service, the proposed regulations are necessary.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No. The Commonwealth’s merit system of employment is uniquely governed by Pennsylvania law, specifically, the Civil Service Reform Act. As such, there are no federal standards applicable to OA’s administration of the Classified Service. To the extent the federal government maintains a separate merit system for its employees, there are no provisions in the proposed regulations that are more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania’s ability to compete with other states?

The Commonwealth’s merit system of employment is uniquely governed by Pennsylvania law, specifically, the Civil Service Reform Act. Nothing in these proposed regulations will either advantage or disadvantage Pennsylvania as compared to other states in its ability to regulate its own merit system.

In comparing the proposed regulation to the employment and personnel regulations of other states, OA researched the states of New York, New Jersey, Ohio, and Maryland. Similar to the state of Pennsylvania, these states have a common goal of having a public sector employment system that is built upon a merit system.

New York Civil Service Law at Article IV Chapter 7 § 50 (1) provides that the merit and fitness of applicants for positions which are classified in the competitive class shall be ascertained by examinations that may be prescribed by the state civil service department or the municipal commission having jurisdiction. In New York the authority and responsibility for the administration of the Civil Service Law is vested in the State Department of Civil Service. New York’s Department of Civil Service carries out all the duties and functions for the administration of the examinations, establishing the type and conduct of tests, establishing and certifying eligibility lists, and the appointment and assignment of personnel in the Department. The administration of New York’s Civil Service program is found in New York regulations at 4 NYCRR 1.1.

New Jersey Civil Service law found at Title 11a mandates that all appointments shall be made only according to merit and fitness to be ascertained, as far as practicable, by examinations, which as far as practicable shall be competitive. (See: N.J.S.A. 11A:1-2) New Jersey's Rules which are found at N.J.A.C. 4A: 1-1.1 provide that the purpose of New Jersey's Civil Service Rules is to establish a personnel system that provides a fair balance between managerial needs and employee protections for the effective delivery of public services consistent with Title 11A, New Jersey Statutes.

Ohio Revised Code at Title I Chapter 124. 02 provides that the director of administrative services and the state personnel board of review shall exercise all functions, powers, and duties that formerly were by law vested in the state civil service commission and the offices of commissioners and members and upon their employees, agents, and representatives. Ohio's regulations found at OAC 123:1-17-02 provide that eligible lists are created by completion of a civil service examination. The eligible list is used to fill the vacancy.

According to Maryland law at § 6-102 of the State Personnel & Pensions Article, the basic purpose of the State Personnel Management System is to provide a system of employment for employees under the authority of the Secretary. One of the major goals of Maryland's state personnel system is to provide for a system of merit employment in the skilled service and professional service, regardless of an applicant's political or religious opinions or affiliation or of any standard other than business efficiency. The regulations that implement the provisions of the State Personnel and Pensions Article are found at COMAR 17.04.01.02

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No, the proposed regulations will not affect other regulations of OA, nor will it affect the regulations of other state agencies.

It bears noting that on May 18, 2023, the State Civil Service Commission rescinded various regulatory provisions that became obsolete upon enactment of the Civil Service Reform Act. These obsolete regulations addressed many of the same topics addressed by OA's proposed regulations. The State Civil Service Commission's remaining regulations either pertain to its appellate jurisdiction, or are defunct by operation of law and will be rescinded by the State Civil Service Commission in the near future.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

During the drafting process, OA identified the following stakeholders: (1) all agencies under the Governor's jurisdiction; (2) the Pennsylvania Liquor Control Board; (3) the State Employee Retirement System; (4) the Public School Employee Retirement System; (5) the Public Utilities Commission; (6) the Pennsylvania Game Commission; (7) the Pennsylvania Fish and Boat Commission; (8) the County Commissioners Associations of Pennsylvania; (9) OA, Equal Employment Opportunity Office; (10) the

Governor's Office of General Counsel; and (11) the Pennsylvania Association of Housing and Redevelopment Agencies.

In July 2021, OA provided draft copies of the proposed regulations to the above stakeholders and solicited their feedback. After receiving and reviewing feedback from the stakeholders, OA prepared written responses, which were distributed to the stakeholders. Finally, on October 7, 2021, OA held a forum with the stakeholders, during which stakeholders could ask questions about the proposed regulations and offer additional input.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The proposed regulations will affect three (3) groups of individuals and entities: (1) individuals seeking employment in the Classified Service (approximately 260,000 applications annually); (2) individuals employed in the Classified Service (approximately 60,000); and (3) governmental entities that utilize the Commonwealth's merit system of employment (33 state government agencies and approximately 300 local government agencies). The proposed regulations will affect these groups of individuals and entities because the proposed regulations establish the processes and rules governing application to, and employment in, civil service positions, as well as practice and procedure before the Secretary of Administration.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Three (3) groups of individuals and entities will be required to comply with the proposed regulations: (1) individuals seeking employment in the Classified Service (approximately 260,000 applications annually); (2) individuals employed in Classified Service positions (approximately 60,000); and (3) governmental entities that utilize the Commonwealth's merit system of employment (33 state government agencies and approximately 300 local government agencies).

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The proposed regulations will not have a financial or economic impact on individuals, small businesses, businesses and labor communities and other public and private organizations. The proposed regulations will provide clear and comprehensive guidance to applicants, employees, and appointing authorities regarding application to, and employment in, Classified Service positions. The proposed regulations will also further streamline administration of the Classified Service by improving upon processes already in place, while omitting processes that are no longer necessary or beneficial to the regulated community.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The proposed regulations are necessary to implement the Civil Service Reform Act and ensure civil service reform within the Commonwealth. The proposed regulations do not impose additional costs on the regulated community or otherwise impose unnecessary burden on the regulated community.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The OA does not anticipate that the proposed regulations will create additional costs on the regulated community, and costs associated with administration of the Classified Service should remain consistent with prior fiscal years. For an expenditure history related to administration of the Classified Service, please see OA's response to Question 23a.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed regulations will not have an impact on local governmental entities that do not utilize the Commonwealth's merit system of employment. To the extent local governments are part of the regulated community, please refer to OA's response to Question 19.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed regulations will not have an impact on state agencies that do not utilize the Commonwealth's merit system of employment. To the extent state agencies are part of the regulated community, please refer to OA's response to Question 19.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

When developing the proposed regulations, OA minimized the need for the regulated community to submit forms and paperwork to only those circumstances where such submissions are required by the Civil Service Reform Act or are necessary for the efficient administration of the Classified Service. Below is a list of forms and paperwork required under the proposed rulemaking:

**Forms:**

- 1. Job Posting Form.**
  - a. Required by proposed § 610.4 (relating to vacancy posting).**
- 2. Application Form.**
  - a. Required by proposed § 610.5 (relating to application requirements).**

**Paperwork:**

- 1. Evidence of Veteran Status.**
  - a. Required by proposed § 608.4 (relating to veterans' preference).**
  - b. Required only if the applicant is seeking to utilize Veterans' Preference.**
- 2. Request for List Removal (if applicable to the appointing authority).**
  - a. Required by proposed § 610.26 (relating to removal of eligible from eligible list).**
  - b. Required only if the appointing authority is seeking to removal an eligible from an eligible list.**
- 3. Report of Emergency Appointments.**

- a. Required by § proposed 610.36 (relating to emergency appointments) and proposed § 611.7 (relating to probationary period of trainees).
  - b. Required only when the appointing authority makes an emergency appointment.
4. **Notice of Extended Probationary Period.**
- a. Required by proposed § 611.2 (relating to duration and extension of probationary periods).
  - b. Required only when the appointing authority extends an employee's probationary period.
5. **Employee Performance Review.**
- a. Required by proposed § 611.13 (relating to performance evaluations generally).
6. **Request for Leave of Absence.**
- a. Required by proposed § 612.1 (relating to leaves of absence generally).
  - b. Required only if the employee is seeking a leave of absence.
7. **Request for Leave of Absence for Military Duty.**
- a. Required by proposed § 612.2 (relating to leaves of absence for military duty).
  - b. Required only if the employee is seeking a leave of absence for military duty.
8. **Notice of Resignation.**
- a. Required by proposed § 612.8 (relating to notice of resignation).
  - b. Required only if the employee is resigning from the Classified Service.
9. **Notice of Acceptance or Rejection of Resignation.**
- a. Required by proposed § 612.10 (relating to acceptance or rejection of resignation).
  - b. Required only where an employee has provided an appointing authority with a notice of resignation in accordance with proposed § 612.8 (relating to notice of resignation).
10. **Change Report.**
- a. Required by proposed § 613.1 (relating to reporting).
  - b. Required when an appointing authority appoints or promotes an employee, changes an employee's position, or changes an employee's job classification.
11. **Request for Investigation.**
- a. Required by proposed § 613.4 (relating to procedure.)
  - b. Required only when an individual requests OA investigate a suspected violation of the Civil Service Reform Act.
12. **Notice of Personnel Action.**
- a. Required by proposed § 614.2 (relating to notice of personnel actions).
  - b. Required when an appointing authority takes action constituting a personnel action, as set forth in 614.1 (relating to personnel actions).
13. **Delegation of Signatory Authority.**
- a. Required by proposed § 614.3 (relating to signatory authority).
  - b. Required when an agency head delegates signatory authority beyond the positions enumerated in the proposed regulation.

(22a) Are forms required for implementation of the regulation?

Yes: (1) Job Posting Form; and (2) Application Form.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

**See attached forms. Copies of the current Vacancy Posting Form and the Application Form are attached, as indicated in paragraph 22a.**

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	Savings will be nominal.					
<b>Regulated Community</b>	Savings will be nominal.					
<b>Local Government</b>	Savings will be nominal.					
<b>State Government</b>	Savings will be nominal.					
<b>Total Savings</b>	Savings will be nominal.					
<b>COSTS:</b>	\$30,775,038	\$39,866,303	\$41,062,292	\$42,294,161	\$43,562,986	\$44,869,875
<b>Regulated Community</b>	\$30,775,038	\$39,866,303	\$41,062,292	\$42,294,161	\$43,562,986	\$44,869,875
<b>Local Government</b>	Local government is included in the regulated community.	Local government is included in the regulated community.	Local government is included in the regulated community.	Local government is included in the regulated community.	Local government is included in the regulated community.	Local government is included in the regulated community.
<b>State Government</b>	State government is included in the regulated community.	State government is included in the regulated community.	State government is included in the regulated community.	State government is included in the regulated community.	State government is included in the regulated community.	State government is included in the regulated community.
<b>Total Costs</b>	\$30,775,038	\$39,866,303	\$41,062,292	\$42,294,161	\$43,562,986	\$44,869,875
<b>REVENUE LOSSES:</b>	There are no expected					

	revenue losses.					
<b>Regulated Community</b>	There are no expected revenue losses.					
<b>Local Government</b>	There are no expected revenue losses.					
<b>State Government</b>	There are no expected revenue losses.					
<b>Total Revenue Losses</b>	There are no expected revenue losses.					

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY 2021-2022</b>	<b>FY 2022-2023</b>	<b>FY 2023-2024</b>	<b>Current FY</b>
Office of Administration, Bureau of Talent Acquisition	\$22,976,566	\$31,810,892	\$38,705,149	\$30,775,038

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**The proposed regulations will not have an adverse impact on small businesses.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

- **4 Pa.Code § 608.6.**
  - **This provision addresses requests for reasonable accommodations in the application and examination processes. Requests for reasonable accommodations can be made through the Office of Administration’s website.**
- **4 Pa.Code §§ 610.5(b), 610.9(c).**
  - **These provisions prohibit the collection of information concerning an individual’s age, race, color, religious creed, ancestry, national origin, gender, sexual orientation, gender identity or expression, political opinions or affiliations, union membership or affiliations, AIDS or HIV status, or disability during the application and examination process, except under limited circumstances related to compliance with state or federal laws or to conduct research required to validate selection procedures.**

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**No alternative regulatory provisions were considered and rejected. The OA believes this proposal represents the least burdensome acceptable alternative.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**The OA did not conduct a regulatory flexibility analysis because the proposed regulations will not have an adverse impact on small businesses.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**Data is not the basis for these proposed regulations. The proposed regulations are intended to provide clear and comprehensive guidance to applicants, employees, and appointing authorities regarding application to, and employment in, Classified Service positions. The proposed regulations will also further streamline administration of the Classified Service by improving upon processes already in place, while omitting processes that are no longer necessary or beneficial to the regulated community.**

(29) Include a schedule for review of the regulation including:

- |   |   |
|---|---|
| A. The length of the public comment period:                                 | <b>30 calendar days</b>   |
| B. The date or dates on which any public meetings or hearings will be held: | <b>To Be Determined After Public Comment Period</b>                 |
| C. The expected date of delivery of the final-form regulation:              | <b>Summer of 2024</b>   |
| D. The expected effective date of the final-form regulation:                | <b>Upon Publication in final-form in the Pennsylvania Bulletin.</b> |
| E. The expected date by which compliance with the final-form                |   |

regulation will be required:

**Upon Publication in  
final-form in the  
Pennsylvania Bulletin.**

F. The expected date by which required permits, licenses or other approvals must be obtained:

**Upon Publication in  
final-form in the  
Pennsylvania Bulletin.**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**The OA will engage in periodic audits of its administration of the Classified Service and, through this process, OA will evaluate its regulatory requirements.**

# Job Posting Form

Submitter:

Date:

Agency Contact to receive  
Email to review posting:

Agency Contact Email:

Working Title (if different from Job  
Spec title):

Number of days to post vacancy:

Job Categories:

*Hold Ctrl to select multiple  
items, then hit Select.*

Accounting and Finance  
Administration  
Agriculture  
Allied Health  
Animal Services  
Architecture  
Arts, Design, Entertainment, & Media

Select

Clear

Selected Job Categories:

Application Template:

*If you are selecting a criminal history  
template, you must have a fair chance  
exemption for this position.*

- CS crim history & no attachment required
- CS crim history & transcript required
- CS no crim history & no attachment required
- CS no crim history & transcript required
- NCS crim history & no attachment required
- NCS crim history & transcript required
- NCS no crim history & no attachment required
- NCS no crim history & transcript required
- Public Safety Application (PREA)

Comments:

The Position:

*Are there any selling points you wish to  
emphasize on this posting?*

Description of Work:

*Provide bullet points or phrases to  
describe the core job duties. Limit the  
description to 2-3 brief paragraphs.*

<p><b>Is the Position Description to be linked on the posting?</b></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p><b>Next Lower Classes (Internal Only):</b> <i>Provide any Next Lower Classes to be listed on the posting.</i></p>	
<p><b>Posting Restrictions:</b> <i>Provide any posting restrictions for this position. (Restricted to specific agency, bureau, etc.)</i></p>	
<p><b>Minimum Experience and Training Requirements (METs):</b> <i>Only list METs if the job title is a "U" code or if the job specifications are not listed on the Commonwealth Careers page.</i></p>	
<p><b>Special Requirements (NSRs):</b> <i>Only list if requirement is from the job spec and applicable to this position.</i></p>	
<p><b>Conditions of Employment (COEs):</b> <i>Only list if requirement is from the job spec and applicable to this position.</i></p>	
<p><b>If you indicated a Driver's License is required in the COE or NSR section, please provide a justification.</b></p>	
<p><b>Selective Certification Criteria (CS positions only):</b> <i>List requested criteria. Justification must be provided - what job duties require an applicant to possess the criteria and why is it needed at the time of application.</i></p>	
<p><b>Desired time frame for anticipating college degrees:</b> <i>If different than the standard time frame of 3 months for vacancy-based titles.</i></p>	
<p><b>Additional Requirements (NCS only):</b> <i>These are <u>must-have</u> additional criteria for which applicants (including veterans) would be deemed ineligible if they lack.</i></p>	
<p><b>Preferred (not required) Qualifications, if applicable (NCS only):</b> <i>These qualifications are preferred, not required. All veteran candidates must still be referred/considered even if they don't have these qualifications.</i></p>	

<b>Do you want applicants to be evaluated for METs, additional requirements, and preferred qualifications (NCS only)?</b> <i>NCS internal applicants will still be reviewed for posting criteria and seniority requirements.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	---

<b>Legal Requirements:</b> <i>Please check the box(es) next to any legal requirements pertaining to this specific position.</i>	<input type="checkbox"/> Medical exam <input type="checkbox"/> Drug screening <input type="checkbox"/> Criminal history <input type="checkbox"/> Background investigation <input type="checkbox"/> Older Adult Protective Services Act <input type="checkbox"/> Child Protective Services Law <input type="checkbox"/> Pub 1075 <input type="checkbox"/> Other: <i>list in box below</i> <input style="width: 100%; height: 20px;" type="text"/>
--	--

<b>Work Schedule:</b>
-----------------------

<b>Start Time:</b> Hour <input style="width: 40px;" type="text"/>	Min <input style="width: 40px;" type="text"/>	AM/PM <input style="width: 40px;" type="text"/>	<b>End Time:</b> Hour <input style="width: 40px;" type="text"/>	Min <input style="width: 40px;" type="text"/>	AM/PM <input style="width: 40px;" type="text"/>
Lunch Period <input style="width: 40px;" type="text"/>	<b>Days:</b> Su <input type="checkbox"/> M <input type="checkbox"/> Tu <input type="checkbox"/> W <input type="checkbox"/> Th <input type="checkbox"/> F <input type="checkbox"/> Sa <input type="checkbox"/>				<b>Home Headquartered?</b> (Home-based office or work) <input style="width: 40px;" type="text"/>

<b>Irregular Schedule Details:</b>	<input style="width: 100%; height: 40px;" type="text"/>
------------------------------------	---

<b>Telework:</b>	<input style="width: 100%; height: 40px;" type="text"/>
------------------	---

<b>Telework eligible (part-time) schedule (if applicable):</b> <i>Please indicate the part-time schedule for teleworking (i.e. 2 days a week in the office, 5 days a pay period in the office, etc.)</i>	<input style="width: 100%; height: 100px;" type="text"/>
---	--

<b>Union:</b>	<input style="width: 100%; height: 40px;" type="text"/>
---------------	---

<b>Seniority Unit (if applicable):</b>	<input style="width: 100%; height: 40px;" type="text"/>
--	---

<b>What job titles have union rights to the position?</b>	<input style="width: 100%; height: 40px;" type="text"/>
---	---

<b>Bureau/Division Code:</b>	<input style="width: 150px;" type="text"/>	<b>Bureau/Division:</b> <i>Please do not abbreviate.</i>	<input style="width: 150px;" type="text"/>
------------------------------	--	---	--

<b>Worksite Street Address:</b>	<input style="width: 100%; height: 40px;" type="text"/>
---------------------------------	---

<b>City:</b>	<input style="width: 150px;" type="text"/>	<b>Zip Code:</b>	<input style="width: 100px;" type="text"/>
--------------	--	------------------	--

<b>Posting Contact Name:</b>			
<b>Phone Number:</b>		<b>Email:</b>	
<b>HR Contact Name:</b> (if different from Posting Contact)			
<b>Phone Number:</b>		<b>Email:</b>	
<b>Starting Salary:</b>		<b>Ending Salary:</b>	
<b>CS Exam Development Requests:</b>	<input type="checkbox"/> New (no existing exam or extensive changes to an existing exam) <input type="checkbox"/> Reopen of existing exam with no changes <input type="checkbox"/> Modification of existing exam with minor to moderate changes <input type="checkbox"/> N/A		
<b>For CS External postings, what level of exam development is required?</b>			
<b>If reopen or modification is requested, please provide exam #:</b>			
<b>If modification is requested, please provide the reason(s) a modification is necessary:</b>			
<b>Supervisor of Vacancy:</b> (will be contacted as a Subject Matter Expert if exam development is needed)			
<b>Supervisor Job Title:</b>			
<b>Supervisor Email:</b>			

Name:  
Home Phone:  
Text Messaging Mobile No:  
Former Last Name:

Address:  
Alternate Phone:  
Email:  
Month and Day of Birth:

### Personal Information

Driver's License:  
Can you, after employment, submit proof of your legal right to work in the United States?

### Preferences

Are you willing to relocate?  
Types of positions you will accept:  
Types of work you will accept:  
Types of shifts you will accept:

### Education

Did you graduate:  
Highest Level Completed:  
Did you receive a GED?  
Degree Received:

### Work Experience

Hours worked per week:  
# of Employees Supervised:  
Name of Supervisor  
May we contact this employer?

Duties

Reason for Leaving

Hours worked per week:  
# of Employees Supervised:  
Name of Supervisor:  
May we contact this employer?

Duties

Reason for Leaving

### Certificates and Licenses

Type:  
Number  
Issued by:  
Date Issued: Date Expires:

### Skills

Office Skills  
Typing:

Data Entry:

---

Other Skills

**Additional Information**

**References**

**Resume**

**Attachments**

### Agency-Wide Questions

1. Q: Information to support your eligibility for the position must be provided on the application (i.e., relevant, detailed experience/education). Resumes, cover letters, and similar documents will **not** be reviewed and the information contained therein will not be considered for the purposes of determining your eligibility for the position or to determine your exam score, if applicable. If you have read and understand this information, please click on the "Yes" button to proceed.

A:

---

2. Q: Pennsylvania offers a hiring preference to qualified Veterans, Surviving Spouses of Deceased Veterans, or Spouses of Disabled Veterans in accordance with the Veterans' Preference Act. Do you believe that you meet the [definition](#) of a Veteran, Surviving Spouse of a Deceased Veteran, or Spouse of a Disabled Veteran? If you answer "Yes" to this question, please attach to your application the [appropriate documentation](#).

A:

---

3. Q: Do you meet the [Pennsylvania Residency](#) requirement? (The posting states if residency is required.)

A:

---

4. Q: Please indicate your county of residence:

A:

---

5. Q: Please indicate the name of your home municipality for tax purposes:

A:

---

6. Q: Please indicate your municipality type for tax purposes:

A:

---

7. Q: Are you at least 18 years of age?

A:

---

8. Q: Please indicate your Highest Level of Education:

A:

---

9. Q: Please indicate any language(s) that you can fluently speak, read, and write (other than English):

A:

---

10. Q: Do you have employment, including self-employment or volunteer work, outside of the job you are seeking with the Commonwealth of Pennsylvania that you intend to continue?

If you answer yes to this question and you are selected for the job, you will be contacted by Human Resources to verify your supplementary employment. You will be notified of the outcome of this review.

A:

---

11. Q: If you answered "Yes - I have employment that I intend to continue if selected for the job for which I am applying." to the previous question, please enter the **Job Title** and the **Employer** where you plan to continue employment.

A:

---

12. Q: If you have work or education history under a different name, please provide your former name(s) below.

A:

---

13. Q: Are you a current or former Commonwealth of Pennsylvania employee?

A:

---

14. Q: **NOTE: Only complete this question if you answered "Yes - Current or Former Employee" in the previous question.**

If you are a current or former Commonwealth of Pennsylvania employee, please indicate your eight-digit Personnel Number (e.g. 00600123):

**If Personnel Number unknown, please leave this field blank.**

A:

---

15. Q: Are you a current or former employee of a county agency, housing authority, or other Pennsylvania political subdivision which contracts with the State Civil Service Commission for merit system coverage?

If Yes, please provide the last four-digits of your Social Security Number to verify employment.

**NOTE: Only complete this question if you are indicating "Yes."**

A:

---

16. Q: If you provided the last four digits of your SSN in the previous question and are a former employee, please indicate your last year of employment:

A:

---

17. Q: Where did you hear about this position/Commonwealth employment?

A:

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

Independent Regulatory  
Review Commission

July 11, 2024

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><b>Amy M. Elliott</b>  <small>Digitally Signed by Amy M. Elliott        DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, ou=Chief Deputy Attorney General, email=ae@attobis.com, c=US        Date: 2024.07.27 11:42:13 -0400</small></p> <p>BY: _____        (DEPUTY ATTORNEY GENERAL)</p> <p><u>7/7/2024</u>        DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable        Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Office of Administration</u>        (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>99-13</u></p> <p>DATE OF ADOPTION: <u>May 7, 2024</u></p> <p></p> <p>BY: <u>Neil Weaver</u></p> <p>TITLE <u>Secretary, Office of Administration</u>        (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><b>adabelson</b>        2024.05.07  <u>15:20:46</u>        -04'00'</p> <p>BY: </p> <p><u>5/7/2024</u>        DATE OF APPROVAL</p> <p>(Deputy General Counsel)</p> <p><input type="checkbox"/> <del>Chief Counsel, Independent Agency</del>        (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
---	---	--

NOTICE OF PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ADMINISTRATION  
BUREAU OF TALENT ACQUISITION  
4 PA. CODE CHAPTERS 608-615  
CIVIL SERVICE REFORM

Title 4. ADMINISTRATION  
PART XV. OFFICE OF ADMINISTRATION  
SUBPART B. CIVIL SERVICE REFORM

4 PA. CODE CH. 608 – 615

Civil Service Reform

\_\_\_\_\_PA. B. \_\_\_\_\_

Saturday, \_\_\_\_\_, 2024

*Introduction*

The Office of Administration proposes to promulgate permanent regulations in 4 Pa. Code Chapters 608-615, (pertaining to civil service reform) by replacing the current temporary regulations at 4 Pa. Code Chapters 601a -607a, which expire on March 12, 2025. The proposed permanent regulations are set forth in Annex A.

*Statutory Authority*

The Office of Administration, pursuant to 71 Pa.C.S. § 2203(a) (relating to regulatory authority), which authorizes the Office of Administration to promulgate regulations necessary to carry out the provisions of 71 Pa.C.S. Part III, hereby publishes proposed rulemaking, to read as set forth in Annex A.

*Purpose of the Proposed Rulemaking*

The proposed rulemaking establishes the regulatory structure for administration of the classified service, the Commonwealth’s merit system of employment, in accordance with the Act of June 28, 2018, P.L. 460, No. 71, commonly referred to as the “Civil Service Reform Act.”

*Summary of the Proposed Rulemaking*

On March 16, 2019, the Office of Administration promulgated temporary regulations, which took effect on March 28, 2019, and expired on March 12, 2022. Thereafter, the Office of Administration promulgated new temporary regulations, which took effect on March 12, 2022, and will expire on March 12, 2025. To ensure proper administration of the classified service, the Office of Administration proposes comprehensive permanent regulations addressing application to, and employment in, civil service positions, as well as practice and procedure before the Secretary of Administration.

The proposed rulemaking incorporates most of the provisions contained in the March 2022 temporary regulations. However, the proposed rulemaking differs from, and expands upon, the March 2022 temporary regulations in several key aspects. First, to provide clarity to the internal recruitment process, the proposed rulemaking adds a definition of “referral.” The proposed rulemaking also adds provisions allowing appointing authorities to cap the number of applicants to a position. The proposed rulemaking further streamlines the reassignment process by implementing a new, two step analysis to determine whether job classifications are “similar” under 71 Pa.C.S. § 2502 (relating to transfers and reassignments). In a similar vein, the proposed rulemaking adds a provision allowing appointing authorities to develop additional merit-related requirements for transfers and reassignments. Finally, the proposed rulemaking simplifies the removal process for Senior Management Services employees by adding a provision that allows an appointing authority to remove an employee who is employed in a Senior Management Services position, without first returning the employee to a civil service position, where just cause exists for their immediate removal.

It bears noting that prior to enactment of the Civil Service Reform Act, the State Civil Service Commission was responsible for the administration of the classified service. To that end, the State Civil Service Commission promulgated various regulations in 4 Pa. Code Chapters 91 through 105. On May 18, 2023, the State Civil Service Commission rescinded regulatory provisions that became obsolete upon enactment of the Civil Service Reform Act. These obsolete regulations addressed many of the same topics addressed by the Office of Administration’s proposed rulemaking. The State Civil Service Commission’s remaining regulations either pertain to its appellate jurisdiction, or are invalid by operation of law and will be reserved by the State Civil Service Commission in the near future. To the extent that the State Civil Service Commission’s remaining regulations conflict with this proposed rulemaking, the proposed rulemaking would control. *See* 71 Pa.C.S. §§ 2201-2203.

## **CHAPTER 608. GENERAL PROVISIONS**

### **GENERAL PROVISIONS**

Proposed § 608.1 establishes the short title of Subpart B as “the Civil Service Reform Regulations.”

Proposed § 608.2 sets forth the purposes of the proposed regulations, which is to effectuate civil service reform, as required by the Civil Service Reform Act. Subsection (b) provides that this regulation is to be read in conjunction with the Act.

Proposed § 608.3 provides definitions of terms used throughout the proposed rulemaking. Definitions set forth in the Civil Service Reform Act are incorporated into proposed § 608.3 by reference. In large part, the definitions contained in proposed § 608.3 are substantively the same as those contained in the Office of Administration’s temporary regulation, § 601a.3 (relating to definitions). Of note, the Office of Administration carries forward the definition of “alternate rule” contained in its temporary regulation. Under this definition, an appointing authority is authorized to elect to use of an alternate rule. The term “alternate rule” stems from 71 Pa.C.S. § 2402 (relating to selection and appointment of eligibles), which provides, in relevant part, “If the vacant position

is to be filled from an eligible list, the appointing authority shall select an individual who is among the three highest-ranking available individuals on the certification of eligibles, *unless the Office of Administration has specified prior to testing the eligibles on the eligible list that either all available individuals regardless of ranking or a specified alternative number other than three of the highest-ranking available individuals shall be used in making selections for the classification.*” (emphasis added). Notably, 71 Pa.C.S. § 2402 does not address who has the authority to elect to use an alternative rule; rather, the provision only prohibits the use of an alternative rule unless the Office of Administration notes the use of such prior to an examination. In light of this statutory gap, and in accordance with its authority under 71 Pa.C.S. § 2202 (relating to duties of Office of Administration), the Office of Administration has empowered appointing authorities to make the decision regarding use of an alternative rule. The Office of Administration made this decision, as it is logical and appropriate for an appointing authority to have some level of discretion over the size of its applicant pool.

Several minor changes were made to definitions carried forward from the Office of Administration’s temporary regulation. For example, the term “appointment” is revised to remove language indicating that the acceptance of an offer of employment does not constitute an appointment. This language was added to § 601a.3 in response to an adjudication issued by the State Civil Service Commission involving the amendment of an eligible list. Specifically, in *Lynn v. Department of Corrections*, Appeal No. 30245 (Adjudication, 2020), *reversed on other grounds Department of Corrections v. Lynn*, 306 A.3d 338 (Pa. 2023), the State Civil Service Commission held that under the then-issued temporary regulations, an appointing authority could not rescind a conditional offer of employment once it had been accepted where the basis for rescinding the offer was an amendment to the eligible list. However, because proposed § 610.17 (relating to amendment of eligible lists) now makes clear that amendments may occur up to the point of an employee starting employment after being lawfully appointed or promoted to a position, the noted language is unnecessary to include in the definition of “appointment.”

In addition to the change to the definition of “appointment,” proposed § 608.3 adds a definition of “referral,” defining the term as “the submission of the names of one or more applicants by the Office of Administration to an appointing authority in order to fill one or more positions through internal recruitment methods.” This term was added to notate the difference between the examination process and internal recruitment process, as well as to differentiate from the term “certification,” which is used in 71 Pa.C.S. § 2401 (relating to certification) and is applicable only to the examination process. The authority for developing an internal recruitment process stems from 71 Pa.C.S. §§ 2301(d)(3), 2502(c), 2503(b), 2606(a)(2). Specifically, 71 Pa.C.S. § 2301(d)(3) permits employees to seek promotion without examination but does not establish the process for effectuating such promotion. Equally, 71 Pa.C.S. § 2502(c) delegates to the Office of Administration authority to develop the process for transfers and reassignments, and 71 Pa.C.S. § 2503(b) permits employees to seek a voluntary demotion “upon written request” but, again, does not establish the process. Finally, 71 Pa.C.S. § 2606(a)(2) permits the reinstatement of an employee “[u]pon the request of an appointing authority”; however, the process by which an employee expresses their interest in reinstatement is not addressed by the Civil Service Reform Act. To account for these statutory gaps, the Office of Administration developed the internal recruitment process. Proposed §§ 610.28–610.35 set forth the substantive requirements regulating the internal recruitment process.

Proposed § 608.4 reaffirms application of veterans' preference to certain positions within the classified service, in accordance with 51 Pa.C.S. Chapter 71 (relating to veterans' preference). 51 Pa.C.S. §§ 7101.1-§7111 (relating to veterans' preference). The proposed regulation also clarifies the documentation necessary to establish an applicant's status as a veteran, surviving spouse, or spouse of a disabled veteran in accordance with 51 Pa.C.S. § 7108 (relating to preference of spouses). Specifically, applicants who served and were discharged should submit their DD 214, DD 215, statement of service, or other military documentation during the application process. Similarly, applicants currently serving in the guard/reserves should submit their DD 214 or NGB-22 during the application process. Applicants that are completing a tour of active duty and are within 90 days of discharge should submit a projected discharge letter at the time of application. If selected for appointment, they must then submit their DD 214 prior to their start date. Finally, the proposed regulation establishes the powers and duties of the Special Advisor for Veterans' Programs, as required by the Act. 71 Pa.C.S. § 2202(a)(12) (relating to duties of Office of Administration).

Proposed § 608.5 addresses application of age preference to classified service positions within the Department of Aging. Specifically, Section 2203-A of The Administrative Code of 1929 (71 P.S. § 581-3(b)) requires that the Department of Aging afford preference "to persons sixty years of age or older" when filling vacancies within the department. To effectuate this requirement, the Office of Administration reads Section 2203-A of The Administrative Code of 1929 (71 P.S. § 581-3(b)) *in pari materia* with the Civil Service Reform Act. *See, e.g. DOC v. Lynn*, 306 A.3d 338, 356 (Pa. 2023) ("the General Assembly[ has] command[ed] to construe statutes *in pari materia* together, if possible, as one statute. This instruction applies when statutes or parts of statutes relate to the same persons or things or to the same class of persons or things."). Accordingly, proposed § 608.5 requires the Office of Administration to notate eligibles' age preference status on certifications provided to the Department of Aging. The proposed regulation also clarifies that, where a certified eligible list issued to the Department of Aging contains the names of an eligible qualifying for veterans' preference under 51 Pa.C.S. Chapter 71 (relating to veterans' preference), and an eligible qualifying for age preference under section 2203-A of The Administrative Code of 1929 (71 P.S. § 581-3(b)), the Department of Aging may select either eligible for appointment. Finally, it bears noting that proposed § 608.5 is substantive consistent with the Department of Aging's regulation concerning age preference, 6 Pa.Code § 5.4 (relating to preference in filling civil service positions).

Proposed § 608.6 pertains to reasonable accommodations for individuals with disabilities seeking employment in the classified service. The Office of Administration includes this provision in this proposed rulemaking to ensure that individuals with disabilities understand how to request accommodations, and to ensure compliance with Federal and State laws, including the Americans with Disabilities Act of 1990, as amended. Information on submitting requests for accommodations in the application and examination process shall be available on the Office of Administration's web site, [www.employment.pa.gov](http://www.employment.pa.gov).

Proposed § 608.7 implements 71 Pa.C.S. § 2901 (relating to service and cooperation), which makes the merit employment services of the Office of Administration available to departments, boards, commissions, agencies, and political subdivisions of the Commonwealth.

The proposed regulation also addresses how Appointing Authorities shall reimburse the Office of Administration for merit employment services. Specifically, under subsection (a), a departments, boards, commissions, agencies, and political subdivisions of the Commonwealth seeking to use the Office of Administration's merit system employment services must submit a written request for the same. Thereafter, the parties will enter into a signed agreement for the provision of services. The method for reimbursement for the Office of Administration's services is set forth in subsection (b). Finally, subsection (c) makes it clear that personnel actions taken pursuant to the written agreement must conform with the Civil Service Reform Act and the proposed rulemaking.

Proposed § 608.8 relates to electronic records and signatures. This provision allows for the use and acceptance of electronic records, including electronic signatures, provided that such records and signatures conform to the Uniform Electronic Transactions Act, 73 P.S. § 2260.301-2260.312, and other laws governing electronic records and signatures.

## **CHAPTER 609. CLASSIFICATION SYSTEM**

### **CLASSIFICATION SYSTEM**

Proposed § 609.1 reaffirms that the Office of Administration will utilize the Commonwealth's classification system, as established by the Executive Board, for positions within the classified service, unless otherwise set forth in a written contract or agreement pursuant to proposed § 608.7. The basis for proposed § 609.1 is 71 Pa.C.S. 2504 (relating to classification and compensation). With respect to written contracts or agreements pursuant to proposed § 608.7, the Executive Board's authority to establish a classification system does not apply to political subdivisions of the Commonwealth. Consequently, where a political subdivision of the Commonwealth utilizes the Office of Administration's merit system employment services, the Office of Administration must maintain a separate classification system for the political subdivision of the Commonwealth.

Proposed § 609.2 addresses trainee job classifications, as contemplated by 71 Pa.C.S. § 2404 (relating to probationary period). Specifically, proposed § 609.2 authorizes the use of trainee job classifications within the classified service, subject to the approval of the Executive Board, and provided the trainee job classification corresponds to a working level job classification.

Proposed § 609.3 authorizes the use of intern job classifications within the classified service, subject to the approval of the Executive Board, and provided the intern job classification corresponds to at least one trainee or working level job classification. Although the Civil Service Reform Act does not address intern job classifications, the Executive Board, which has the exclusive authority over the Commonwealth's classification system pursuant to Section 709 of The Administrative Code of 1929 (71 P.S. § 249), frequently creates intern job classifications, which meet the definition of classified service under 71 Pa.C.S. § 2103 (relating to definitions) and, therefore, must be included in the classified service. To address this gap, the Office of Administration developed proposed § 609.3.

Proposed § 609.4 addresses the qualifications necessary for application to, or employment in, positions in the classified service. Specifically, under proposed § 609.4(a), an applicant to a

position in the classified service must meet the minimum qualifications for employment in the job classification for which the applicant applied, as set forth in the applicable job specification. Similarly, under proposed § 609.4(b), an employee employed in the classified service must meet the minimum qualifications for employment in the job classification in which the employee is employed, as set forth in the applicable job specification. The terms “minimum qualifications” and “job specification” are defined in proposed § 608.2. Finally, it should be noted that minimum qualifications for classified service job classifications are established by the Executive Board, in accordance with Section 709 of The Administrative Code of 1929 (71 P.S. § 249). The Office of Administration is required to utilize and enforce these minimum qualifications pursuant to 71 Pa.C.S. § 2504 (relating to classification and compensation).

Proposed § 609.5 permits appointing authorities to request that the Office of Administration include a position or group of positions in the unclassified service where the position or group of positions meet the definition of “unclassified service,” as set forth in 71 Pa.C.S. § 2103 (relating to definitions). Specifically, under subsection (a), an appointing authority seeking to include a position or group of positions in the unclassified service must submit a written request to the Office of Administration, stating the basis for the request and including all supporting documentation. Subsection (b) addresses the criteria considered by the Office of Administration when reviewing requests based on a position’s participation in policy decisions. This criteria includes a review of the position’s general degree of decision making, as well as organizational placement and pay assignment, as these factors are typically indicative of a position’s autonomy and discretion in the policy-making process. Similarly, subsection (c) addresses the criteria considered by the Office of Administration when reviewing requests based on the position being used for a limited term special study, project, or internship. This criteria includes a review of the type and nature of work performed by the position, as, with respect to internships, the definition of unclassified services makes clear that where the work should be performed by an individual in the classified service, inclusion of the internship position in the unclassified service is inappropriate. The Office of Administration also considered whether the position offers general work experience for a student enrolled in an educational program, and whether the position is an entry level employment opportunity for a student enrolled in an educational program, to ensure that the position is properly designed as an internship.

## **CHAPTER 610. APPOINTMENTS AND PROMOTIONS IN THE CLASSIFIED SERVICE**

### **SUBCHAPTER A. RESIDENCY REQUIREMENT**

Proposed § 610.1 implements the Pennsylvania residency requirement for application to a position in the classified service, which is contained in 71 Pa.C.S. § 2301(b) (relating to examinations requisite for appointment and promotion). Under 71 Pa.C.S. § 2301(b), applicants to positions in the classified service must be residents of Pennsylvania, as defined in 71 Pa.C.S. § 2301(b), unless the residency requirement is waived due to a lack of qualified applicants. The proposed regulation makes clear that the residency requirement does not apply to an individual who was previously a regular employee and who is returned to employment from an approved leave of absence, through mandatory reemployment, or through contractual recall or placement rights, since the preference under 71 Pa.C.S. § 2301(b) applies only to individuals applying for a position in the classified service. The proposed regulation also makes clear that an applicant, who is attending college, university, or technical school outside of this Commonwealth but maintains their residence in Pennsylvania while their college, university, or technical school is not in session is a resident under 71 Pa.C.S. § 2301(b). Equally, the proposed regulation addresses the residency status of members of the armed forces and their spouses. Finally, the proposed regulation addresses county preference, under which an appointing authority may request the Office of Administration to limit certification to eligibles residing in a specific county within the Commonwealth. County preference is authorized by 71 Pa.C.S. § 2301(c) (relating to examinations requisite for appointment and promotion). Specifically, 71 Pa.C.S. § 2301(c) permits the Office of Administration to limit certification to eligibles who are residents of a “district.” In turn, the courts have interpreted the term “district” to mean county. *Cambria Cnty. Mental Health/Mental Retardation v. State Civ. Serv. Comm’n (Cotton)*, 756 A.2d 103 (Pa. Cmwlth. 2000); *Humphreys v. State Civ. Serv. Comm’n*, 301 A.2d 400 (Pa. Cmwlth. 1973) (*en banc*); *Donahue v. State Civil Serv. Comm’n (Dep’t of Human Servs.)*, 253 A.3d 845 (Pa. Cmwlth. 2021) (Table Op.).

### **SUBCHAPTER B. RECRUITMENT METHODS; SELECTIVE CRITERIA**

Proposed § 610.2 addresses the recruitment methods applicable to the classified service. Specifically, proposed § 610.2(a) explains that the default recruitment method for a vacant position in the classified service is an examination, as set forth in 71 Pa.C.S. § 2301(a) (relating to examinations requisite for appointment and promotion). Proposed § 610.2(b) permits appointing authorities to utilize internal methods (promotion without examination, transfer, reassignment, demotion, reinstatement) in lieu of examination to recruit applicants for vacant positions in the classified service. This provision is based on 71 Pa.C.S. § 2301(d), which allows for promotions without examine; 71 Pa.C.S. § 2502, which allows for transfer and reassignments; 71 Pa.C.S. § 2503, which allows for voluntary demotions; and 71 Pa.C.S. § 2606(a)(2), which allows for reinstatement. Proposed § 610.2(c) further permits appointing authorities to limit application to specific work locations when using internal recruitment methods to fill a vacant position. Finally, proposed § 610.2(d) explains the precedence given to preferred reemployment lists and mandatory reemployment lists, as required by 71 Pa.C.S. §§ 2602 and 2608 (relating to furlough; relating to leave of absence).

Proposed § 610.3 implements 71 Pa.C.S. § 2401(d) (relating to certifications), which authorizes the Office of Administration to selectively certify eligibles based on merit-related criteria, provided the selective certification is dictated by operational conditions of the appointing authority and is in the interest of the Commonwealth. The proposed regulation clarifies that use of selective criteria is subject to the approval of the Office of Administration. The proposed regulation further explains that selective criteria may include a bona fide occupational qualification deemed necessary for employment in a specific position, or other factors necessary to comply with Federal and State laws and regulations.

### **SUBCHAPTER C. VACANCY POSTINGS AND APPLICATION PROCESS**

Proposed § 610.4 concerns vacancy postings for positions in the classified service, setting forth the required content of a vacancy posting and explaining that vacancy postings will be available through the Office of Administration's website, [www.employment.pa.gov](http://www.employment.pa.gov). The proposed regulation also addresses corrective actions the Office of Administration may require an appointing authority to take where a vacancy posting does not conform to the requirements set forth in the proposed regulation. The authority for proposed § 610.4 stems from the Office of Administration's authority in 71 Pa.C.S. § 2202 (relating to duties of Office of Administration) to maintain the Commonwealth's merit system and direct and supervise the administrative work of the merit system. To that end, through proposed § 610.4 OA seeks to develop uniform requirements for advertising a vacant position in the classified service, to ensure consistency among the appointing authorities.

Proposed § 610.5 pertains to application requirements. While the Civil Service Reform Act references applications, it does not set forth requirements concerning the context and use of applications. Therefore, pursuant to its authority to maintain the Commonwealth's merit system and direct and supervise the administrative work of the merit system, as set forth in 71 Pa.C.S. § 2202 (relating to duties of Office of Administration), the Office of Administration seeks to ensure consistency in the application process through § 610.5. Specifically, proposed § 610.5(a) sets forth the requirements for submitting to the Office of Administration an application for employment in the classified service. Under the proposed regulation, applicants must include on their application all information necessary for determining whether the applicant possesses the minimum qualifications for employment in the relevant job classification and, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied. The Office of Administration may reject an application that is untimely or incomplete, and it may also limit the number of applications accepted for a vacancy, provided notice of such limitation is included on the vacancy posting. Finally, under subsection (b) of the proposed regulation, applications cannot contain questions concerning an applicant's age, race, color, religious creed, ancestry, national origin, gender, sexual orientation, gender identity or expression, political opinions or affiliations, union membership or affiliations, AIDS or HIV status, or disability unless such questions are necessary to comply with Federal or State laws and regulations, including laws and regulations on equal opportunity, or are necessary to conduct research required to validate selection procedures. The basis for subsection (b) is twofold. First, 71 Pa.C.S. § 2704 (relating to discrimination) prohibits discrimination in the examination process on the basis of race, gender, religion, disability or political, partisan or labor union affiliation or other nonmerit

factors. Second, various federal and state laws prohibit discriminatory employment practices on the basis of an individual's age, race, color, religious creed, ancestry, national origin, gender, sexual orientation, gender identity or expression, political opinions or affiliations, union membership or affiliations, AIDS or HIV status, or disability.

Proposed § 610.6 addresses the Office of Administration's evaluation of applicants' qualifications for employment in a classified service position. Under the proposed regulation, the Office of Administration must determine whether an applicant possesses the minimum qualifications for employment in the job classification and, where applicable, the selective criteria required for appointment or promotion to the position to which the applicant applied. The primary basis and source of authority for the Office of Administration's evaluation of qualifications is the job specification of the job classification, which are promulgated by the Executive Board and set forth the minimum qualifications necessary for employment in the job classification. Often, a job classification's minimum qualifications require interpretation by the Office of Administration, since they use broad terminology such as "paraprofessional experience." Accordingly, the proposed regulation permits the Office of Administration to develop aids for interpreting minimum qualifications. These aids represent the Office of Administration's official interpretation of the various minimum qualifications and are binding for purposes of evaluations. The Office of Administration's practice of using aids to interpret minimum qualifications has been in place since the enactment of the Civil Service Reform Act in 2019, and such aids have been afforded deference by the State Civil Service Commission in the adjudicative process. *See, e.g. Nestor v. Off. of Admin.*, Appeal No. 31142 (SCSC 2024); *accord Phan v. Off. of Admin.*, Appeal No. 30284 (SCSC 2020).

Under proposed § 610.6, an applicant who is determined to not possess the minimum qualifications for employment in the job classification and, where applicable, the selective criteria required for appointment or promotion to the position to which the applicant applied, will receive notice of their ineligibility from the Office of Administration, and the Office of Administration is not required to score the applicant's examination or refer the applicant. Applicants who believe the Office of Administration erred in evaluating their qualifications may request reconsideration by the Office of Administration or otherwise file an appeal with the State Civil Service Commission under 71 Pa.C.S. § 3003(7)(ii).<sup>1</sup> Where reconsideration is sought, and the Office of Administration determines that an applicant was improperly determined to lack the minimum qualifications or selective criteria required for employment in a job classification or position, the Office of Administration will score the applicant's examination and, if the applicant obtains a passing examination score, certify the applicant's name to the appropriate eligible list or otherwise refer the applicant's name to the appointing authority with instructions that the appointing authority must consider the applicant for appointment or promotion to the vacancy in accordance with the act and the subpart. Proposed § 610.6 effectuates Section 217 of The Administrative Code of 1929 (71 P.S. § 77), as well as 71 Pa.C.S. §§ 2202 (relating to duties of Office of Administration), 2302 (relating to nature of examinations), and 2504 (relating to classification and compensation).

---

<sup>1</sup> The ability to file an appeal with the State Civil Service Commission of an evaluation decision made by the Office of Administration is not addressed by proposed § 610.6, as the appellate process is outside the scope of the Office of Administration's regulatory authority.

Proposed § 610.7 addresses the auditing of applicants' applications. Under the proposed regulation, information submitted on an applicant's application is subject to auditing by the Office of Administration. The regulation also permits the Office of Administration to deem an applicant ineligible, or remove an individual from a position, if the Office of Administration cannot confirm information included on an applicant's application. Proposed § 610.6 effectuates Section 217 of The Administrative Code of 1929 (71 P.S. § 77), as well as 71 Pa.C.S. §§ 2202 (relating to duties of Office of Administration), 2302 (relating to nature of examinations), 2504 (relating to classification and compensation), and 2701 (relating to periodic audits of employees by Office of Administration).

#### **SUBCHAPTER D. EXAMINATIONS**

Proposed § 610.8, which implements 71 Pa.C.S. § 2302 (relating to nature of examinations), addresses examination methods. Under the proposed regulation, the appointing authority selects the method of examination to be used for the job classification or position(s). An appointing authority may not develop and administer their own examination, without written authorization from the Office of Administration.

Proposed § 610.9 addresses development of examinations. The basis for this provision is 71 Pa.C.S. § 2303 (relating to holding examinations and rating competitors), which empowers the Office of Administration to prepare and administer examinations. Under the proposed regulation, the Office of Administration may develop and administer written, oral, and performance tests, as well as assessments of education, training, and experience. The Office of Administration may authorize further tests, as the circumstances warrant. Under the proposed regulation, position descriptions shall be the primary basis and authority for the content and difficulty of said examinations, and supplemental job information may be used as a further basis for examination standards. The proposed regulation affirms that no examination will require an applicant to provide information concerning their age, race, color, religious creed, ancestry, national origin, gender, sexual orientation, gender identity or expression, political opinions or affiliations, union membership or affiliations, AIDS or HIV status, or disability; nor will the information be required in another manner by an official or employee of the Office of Administration or of an appointing authority. The proposed regulation permits the Office of Administration to collaborate with appointing authorities or other qualified individuals regarding the content of examinations. Finally, where multiple tests or assessments constitute the entirety of an examination, the proposed regulation permits the Office of Administration to consider the relative value of tests or assessments and fix the relative weights.

Proposed § 610.10 addresses the administration of examinations and effectuates 71 Pa.C.S. § 2303 (relating to holding examinations and rating competitors). Under the proposed regulation, the Office of Administration will administer examinations to establish employment and promotion lists. The Office of Administration shall publish notices of examinations, may collaborate with appointing authorities or other qualified individuals in administering examinations, and will notify applicants of admittance or non-admittance to an examination. The Office of Administration is not required to examine an applicant who lacks the established requirements for admission or minimum qualifications in the relevant job class. Moreover, the proposed regulation enables the Office of Administration to refuse to examine an applicant for additional reasons, set forth in

subsection (e) of the proposed regulation, such as where the applicant has been convicted of a crime that renders the applicant unfit for the position sought, the applicant was previously terminated from prior employment due to incompetence or misconduct that renders the applicant unfit for the position sought, or where the applicant lacks professionalism, honesty, trustworthiness, or dependability.

Proposed § 610.10 mirrors the Office of Administration's temporary regulation, 4 Pa.Code § 602a.10, and the Office of Administration intends to interpret and apply these regulations in the same manner. When considering whether to refuse to examine an applicant based on reasons such as criminal conduct, termination from prior employment, or a lack of professionalism, the Office of Administration reviews each situation on a case-by-case basis and exercises its discretion only where there is a clear nexus to the relevant position. For example, where an applicant has been convicted of a crime, the Office of Administration will consider whether the criminal conduct reasonably casts doubt on the applicant's ability to perform the duties of the position. The Office of Administration may refuse to examine an applicant, who was recently convicted of embezzlement, when the applicant is seeking appointment to a position involving public funds or sensitive information. Equally, the Office of Administration would likely not refuse to examine an applicant, who has been convicted of driving under the influence, when the applicant is seeking appointment to a position that does not involve driving. Consistent with 18 Pa.C.S. § 9125 (relating to use of records for employment), the Office of Administration considers only felony and misdemeanor convictions and does not consider summary offenses, mere arrests, or pending charges.

The Office of Administration performs a similar analysis when considering whether to refuse to examine an applicant based on termination from prior employment or a lack of professionalism, honesty, trustworthiness, or dependability. For example, the Office of Administration would likely not refuse to examine an applicant, who was terminated from their prior employment due to an inability to do a specific task, where the position sought by the applicant does not involve that specific task. Equally, the Office of Administration may refuse to examine an applicant based on a lack of professionalism or dependability where the applicant failed to attend the interview without prior notice or subsequent follow-up, but the same result would likely not occur where the applicant provided prior notice and explanation. However, it again bears noting that the Office of Administration reviews each situation on a case-by-case basis and exercises its discretion only where there is a clear nexus to the relevant position. The examples provided here are hypotheticals offered to illustrate how proposed § 610.10 may be applied, and the ultimate outcome of each situation will vary based on the totality of the facts presented.

Finally, proposed § 610.10 addresses failure of an applicant to appear for an in-person examination. The proposed regulation also empowers the Office of Administration to cancel, postpone, or reschedule examinations, and provides that the Office of Administration may designate the time frame in which an applicant may retake an examination. The Office of Administration did not specify the exact time frame for applicants to retake an examination, as such time frame may be dependent on the relevant job classification, the needs of the appointing authority, and the terms of collective bargaining agreements.

Proposed § 610.11 addresses promotion examinations. Specifically, under the proposed regulation, promotion examinations are open to probationary and regular employees occupying a position with a lower maximum salary than the position relevant to the examination. The proposed regulation further permits the Office of Administration to limit entrance to promotion examinations. The basis for proposed § 610.11 is 71 Pa.C.S. § 2301 (relating to examinations requisite for appointment and promotion).

Proposed § 610.12 addresses prohibited conduct in examinations. Under the proposed regulation, individuals may not cheat, seek undue advantages, or improperly use examination materials. The Office of Administration may disqualify applicants who violate this section. This provision is based upon 71 Pa.C.S. §§ 2202 (relating to duties of Office of Administration), 2303 (relating to holding examinations and rating competitors), and 2703 (relating to misdemeanors).

Proposed § 610.13 addresses scoring of examinations and implements 71 Pa.C.S. § 2305. Under subsections (a) and (b), the Office of Administration shall set qualifying raw scores, taking into consideration the number and quality of prospective eligibles, and may disqualify an applicant who fails to earn a qualifying score on any part of an examination. Under subsection (c), the Office of Administration may rank or group applicants using their final examination scores. Subsection (d) affirms the calculation of veterans' preference in the scoring process, while subsections (e) and (f) require the Office of Administration to correct and report discovered errors in applicants' examination scores and permits applicants to request reconsideration of their examination score, respectively. Reconsideration by the Office of Administration under subsection (f) is limited to a re-review of the applicant's examination. Finally, subsection (g) permits the Office of Administration to not score applicants who lack the established requirements for admission to the examination, or who lack minimum qualifications for employment in the relevant job classification, or, where applicable, the selective criteria required for employment in the specific position to which the applicant applied. The proposed regulation also permits the Office of Administration to refuse to score applicants based on the same factors set forth in proposed § 610.10(e). To ensure consistency, the Office of Administration applies the same nexus-based analysis to proposed 610.13(g) and proposed § 610.10(e).

Proposed § 610.14 addresses examination analysis and alternatives. Under the proposed regulation, the Office of Administration will initiate analysis to ensure examinations do not discriminate based on nonmerit factors, and it further provides that the Office of Administration may, after investigation, invalidate examinations and substitute an alternative method of examination. Due to the numerous variables that are associated with examination analysis, the proposed regulation is written in a manner that affords the Office of Administration flexibility in conducting an examination analysis and addressing its findings. For example, the Office of Administration must ensure that examinations do not have a disparate impact on applicants based on factors such as race, gender, age, education level, and national origin, and where a disparate impact is discovered, the Office of Administration requires the flexibility to address the impact in the most effective manner, which may range from retooling an examination for future use, to invalidation of an examination. The basis for proposed § 610.14 is 71 Pa.C.S. §§ 2202 (relating to duties of Office of Administration), 2303 (relating to holding examinations and rating competitors), and 2704 (relating to prohibition of discrimination). Notably, 71 Pa.C.S. § 2704 prohibits discrimination in the examination process. Finally, it bears noting that proposed § 610.14

mirrors the Office of Administration's temporary regulation, 4 Pa.Code § 602a.14, which in turn was based on the State Civil Service Commission's former regulation, 4 Pa.Code § 95.48 (reserved 2023).

#### **SUBCHAPTER E. ESTABLISHMENT OF ELIGIBLE LISTS**

Proposed § 610.15 addresses the creation of eligible lists, which shall consist of the names of applicants who qualified for, and passed, the examination. The nomenclature for an applicant whose name is on an eligible list is "an eligible." This provision implements 71 Pa.C.S. § 2306 (relating to establishment of eligible lists).

Proposed § 610.16 effectuates 71 Pa.C.S. § 2307 (relating to duration of eligible lists) and directs that the duration of eligible lists will be fixed by the Office of Administration based of the needs of the Commonwealth.

Proposed § 610.17 addresses amendment of eligible lists. Under the proposed regulation, the Office of Administration may amend an eligible list to correct a clerical error, including to correct an eligible's score, to indicate a change in an eligible's veteran status, to add or remove an eligible's name, or to suspend or change an applicant's eligibility for certification, appointment, or promotion. Amendments may not disadvantage an individual who has started employment after being appointed or promoted based on a valid certification previously issued. The basis for proposed § 610.17 is 71 Pa.C.S. § 2307 (relating to duration of eligible lists). Specifically, 71 Pa.C.S. § 2307(c) permits the Office of Administration to correct clerical errors in connection with the preparation of an eligible list and revise the list accordingly.

Proposed § 610.18 addresses the replacement and integration of eligible lists. Under the proposed regulation, the Office of Administration may replace earlier eligible lists, or may integrate eligible lists using an equivalent list. Eligibles whose names remain on a list being replaced shall be notified of their opportunity to participate in the examination. The basis for this provision is 71 Pa.C.S. § 2306 (relating to establishment of eligible lists), which requires the Office of Administration to establish and maintain as many lists as necessary to meet the needs of the Commonwealth.

Proposed § 610.19 addresses the cancellation of eligible lists. The basis for proposed § 610.19 is 71 Pa.C.S. § 2307(d) (relating to duration of eligible lists), which permits the Office of Administration to cancel an eligible list where there is illegality or fraud in the creation of the list. Under the proposed regulation, the Office of Administration may cancel an eligible list due to illegality or fraud, after holding a public hearing under chapter 615 of the proposed regulations. Upon cancellation, eligibles shall be notified of the cancellation.

#### **SUBCHAPTER F. CERTIFICATION OF ELIGIBLES**

Proposed § 610.20 addresses requests for certifications and implements 71 Pa.C.S. § 2401. Under the proposed regulation, the Office of Administration will issue to the appointing authority as many certifications as necessary to satisfy the employment needs of the appointing authority.

Similarly, the Office of Administration shall certify as many types of eligible lists as requested by the appointing authority, thereby effectuating 71 Pa.C.S. § 2306.

Proposed § 610.21 addresses the content of certifications and implements 71 Pa.C.S. § 2401. Under the proposed regulation, certified eligible lists will contain the names of those eligibles who received a passing final examination score. Subsections (b) and (c) affirm the usage of veterans' preference and age preference, as relevant.

Proposed § 610.22 addresses the duration of certifications. Under the proposed regulation, certified eligible lists shall be valid for 90 business days, as required by 71 Pa.C.S. § 2402 (relating to selection and appointment of eligibles).

Proposed § 610.23 addresses refusal to certify and removals from certification. Under the proposed regulation, the Office of Administration is not required to certify, and may otherwise remove, an eligible who lacks the minimum qualifications for employment in the relevant job classification or, where applicable, the selective criteria required for appointment or promotion to the specific position to which the eligible applied. Additionally, the Office of Administration is not required to certify, and may otherwise remove, an eligible based on the same factors set forth in proposed § 610.10(e). To ensure consistency, the Office of Administration applies the same nexus-based analysis to proposed 610.23 and proposed § 610.10(e). Proposed § 610.23 effectuates 71 Pa.C.S. §§ 2306 (relating to establishment of eligible lists) and 2402 (relating to selection and appointment of eligibles).

#### **SUBCHAPTER G. APPOINTMENT AND PROMOTION OF ELIGIBLES FROM CERTIFIED ELIGIBLE LISTS**

Proposed § 610.24 addresses the rule of three and alternate rule. Subsection (a) directs that unless an appointing authority elects to use an alternate rule, the rule of three shall apply when selecting an eligible. Subsection (b) sets forth that an appointing authority may elect to use an alternate rule when selecting an eligible. Finally, subsection (c) requires that, during the process of making the multiple appointments or promotions from a single certified eligible list, the appointing authority shall follow the same procedure for each appointment or promotion made. Proposed § 610.24 effectuates 71 Pa.C.S. § 2402 (relating to selection and appointment of eligibles).

Proposed § 610.25 addresses the assessment of eligibles. The Office of Administration draws its authority for this proposed regulation from its broad authority to implement and oversee the Commonwealth's merit system of employment, set forth in 71 Pa.C.S. § 2202(a) (relating to duties of Office of Administration), as well as 71 Pa.C.S. § 2402 (relating to selection and appointment of eligibles), which addresses the selection of eligibles. Under the proposed regulation, an appointing authority may conduct an interview or otherwise assess relative suitability for appointment or promotion of a certified eligible, but the assessment must be based on merit-related criteria and be conducted in accordance with the act and this subpart. The term "merit-related," which is used numerous times throughout the proposed rulemaking, stems from 71 Pa.C.S. § 2704 (relating to discrimination), which prohibits discrimination in the examination, application, and hiring process based on nonmerit factors. Criteria is merit-related where it

“touch[es] upon [an individual’s] competency and ability in some rational and logical manner.” *Galant v. Com., Dep’t of Env’tl. Res.*, 626 A.2d 496, 498 n.2 (Pa. 1993).

Proposed § 610.26 addresses removal of an eligible from an eligible list. Subsection (a) sets forth the requirements for an appointing authority’s request to remove an eligible. Subsection (b) provides the process for an eligible to respond to an appointing authority’s request for a list removal. Finally, subsection (c) sets forth the Office of Administration’s authority to grant or deny an appointing authority’s list removal request. The duration of a list removal is subject to the discretion of the Office of Administration, based on the totality of the circumstances. For example, an eligible may be removed from a list for six months after repeated failures to attend scheduled interviews, or a list removal may be indefinite in duration where the eligible has made repeated threats of violence toward individuals involved in the hiring process. Because circumstances are often unique, it would be nearly impossible to set definite time frames in the proposed regulation. However, to ensure consistency among similar circumstances, the Office of Administration tracks list removal durations and attempts to levy list removals in an equitable manner. Proposed § 610.26 effectuates 71 Pa.C.S. §§ 2306 (relating to establishment of eligible lists) and 2402 (relating to selection and appointment of eligibles).

Proposed § 610.27 prohibits an eligible from influencing another eligible to withdraw from competition for a position in the classified service. Under the proposed regulation, the Office of Administration may take appropriate action if an eligible violates the proposed regulation. The basis for this provision is 71 Pa.C.S. § 2703 (relating to misdemeanors).

#### **SUBCHAPTER H. APPOINTMENT AND PROMOTION THROUGH INTERNAL RECRUITMENT METHODS**

Proposed § 610.28 addresses the referral of applicants who apply for employment in the classified service through internal recruitment methods. Under the proposed regulation, upon the closing of a vacancy posting limited to internal recruitment methods, the Office of Administration will refer to the appointing authority the names of those applicants available for appointment or promotion. The Office of Administration is not required to refer an applicant who lacks the minimum qualifications, or for other factors enumerated in subsection (b). Such enumerated factors mirror those in proposed § 610.10(e). Therefore, to ensure consistency, the Office of Administration applies the same nexus-based analysis to proposed 610.28 and proposed § 610.10(e). Finally, proposed § 610.28 implements 71 Pa.C.S. §§ 2301 (relating to examinations requisite for appointment and promotion), 2502 (relating to transfers and reassignments), 2503 (relating to demotions), and 2606 (relating to resignation). The provision further effectuates Section 217 of The Administrative Code of 1929 (71 P.S. § 77), which requires all Commonwealth employees be qualified for the job classification that they hold.

Proposed § 610.29 addresses reassignment and implements 71 Pa.C.S. § 2502(c), which permits the Office of Administration to develop the method by which employees can be reassigned in the classified service. Under the proposed regulation, an employee in the classified service may seek appointment to a vacant position through reassignment, provided the position is in the same or similar job classification to which the employee currently holds. The Office of Administration will determine whether job classifications are similar by reviewing whether the job classifications

are in the same occupational field and whether movement from one job classification to the other job classification represents a logical career movement for the employee. If either factor is met, the job classifications shall be considered similar. In addition to the criteria set by the Office of Administration, an appointing authority may limit application for a reassignment based on additional, merit-related criteria.

Proposed § 610.30 addresses transfer and implements 71 Pa.C.S. § 2502(c), which permits the Office of Administration to develop the method by which employees can be transferred in the classified service. Under the proposed regulation, an employee in the classified service may seek appointment to a vacant position through a transfer, provided the position is in the same job classification held by the employee. In addition to the criteria set by the Office of Administration, an appointing authority may limit application for a transfer based on additional, merit-related criteria.

Proposed § 610.31 addresses voluntary demotion. Under the proposed regulation, an employee in the classified service may seek appointment to a vacant position through demotion, provided the position is in a lower job classification in which the employee previously held regular status, or which the employee is otherwise qualified to hold. Proposed § 610.31 implements 71 Pa.C.S. § 2503 (relating to demotions).

Proposed § 610.32 addresses reinstatement. Under the proposed regulation, an applicant who previously held regular status in the classified service and who resigned or otherwise voluntarily separated from such employment may seek appointment to a vacant position through reinstatement, provided the position is in the same job classification from which the applicant resigned. Proposed § 610.32 effectuates 71 Pa.C.S. § 2606(a)(2) (relating to resignation), which permits an individual to reinstate into the job classification from which the individual resigned.

Proposed § 610.33 addresses promotion and implements 71 Pa.C.S. §§ 2301 (relating to examinations requisite for appointment and promotion), 2404 (relating to probationary period), and 2505 (relating to effect of reclassifications). Subsection (a) enumerates the methods by which a vacancy may be filled by promotion. Subsection (b) enumerates the circumstances in which a promotion without examination may be accomplished. With respect to intern job classifications, although the Civil Service Reform Act does not address classified service internships, the Executive Board, which has the exclusive authority over the Commonwealth's classification system pursuant to Section 709 of The Administrative Code of 1929 (71 P.S. § 249), frequently creates intern job classifications, which meet the definition of classified service under 71 Pa.C.S. § 2103 (relating to definitions) and, therefore, must be included in the classified service. Because 71 Pa.C.S. § 2404(a) requires every employee complete a probationary period, employees in intern job classifications must serve a probationary period. However, given the nature of internships, which are not intended to be permanent employment, it is not practical for an employee to attain regular status in an intern job classifications. Therefore, to address this gap, the Office of Administration exercised its authority under 71 Pa.C.S. § 2202 to develop a promotion without examination process for internships, similar to that of trainees. Under this process, an intern who has successfully completed the duration of the internship may be promoted without further examination to the higher-level (working-level) job classification, provided the intern possesses the minimum qualifications for employment in the higher-level job classification.

Subsection (c) of proposed § 610.33 sets forth the definitions of “meritorious service” and “seniority,” as those terms are used in the proposed regulation. Subsection (d) sets forth the eligibility requirements for all promotions, regardless of method. Subsection (e) addresses collective bargaining agreement terms, insofar as they relate to promotions. Under this subsection, a collective bargaining agreement will control, provided the terms are not otherwise contrary to the Civil Service Reform Act. This language is supported by *PSCOA v. SCSC*, 939 A.2d 296 (Pa. 2007), which held that while a collective bargaining agreement may contain provisions regarding the promotion process, it cannot be construed to invalidate or contradict the substantive requirements of the act.

Proposed § 610.34 addresses assessment of referred applicants. The Office of Administration draws its authority for this proposed regulation from its broad authority to implement and oversee the Commonwealth’s merit system of employment, set forth in 71 Pa.C.S. § 2202(a) (relating to duties of Office of Administration), 71 Pa.C.S. §§ 2301 (relating to examinations requisite for appointment and promotion), 2502 (relating to transfers and reassignments), 2503 (relating to demotions), and 2606 (relating to resignation). The provision further effectuates Section 217 of The Administrative Code of 1929 (71 P.S. § 77), which requires all Commonwealth employees be qualified for the job classification that they hold. Under the proposed regulation, an appointing authority may conduct an interview or otherwise assess relative suitability for appointment or promotion of a referred applicant, but the assessment must be based on merit-related criteria. As previously noted, the term “merit-related” stems from 71 Pa.C.S. § 2704 (relating to discrimination), which prohibits discrimination in the examination, application, and hiring process based on nonmerit factors. Criteria is merit-related where it “touch[es] upon [an individual’s] competency and ability in some rational and logical manner.” *Galant v. Com., Dep’t of Env’tl. Res.*, 626 A.2d 496, 498 n.2 (Pa. 1993).

Proposed § 610.35 prohibits an applicant from influencing another applicant to withdraw from competition for a position in the classified service. Under the proposed regulation, the Office of Administration may take appropriate action if an applicant violates the proposed regulation. The basis for this provision is 71 Pa.C.S. § 2703 (relating to misdemeanors).

## **SUBCHAPTER I. EMERGENCY APPOINTMENTS**

Proposed § 610.36 addresses emergency appointments and implements 71 Pa.C.S. § 2407 (relating to emergency appointments). Subsection (a) grants authority to appointing authorities to appoint a qualified applicant during limited emergency situations for a period of 30 calendar days. Subsection (b) addresses the status of emergency employees. Subsection (c) requires an appointing authority to report to the Office of Administration details regarding an emergency appointment and grants the Office of Administration the ability to take corrective actions if it determines that the emergency appointment does not conform with the act or the proposed regulation. Finally, subsection (d) grants the Office of Administration the authority to extend the emergency appointment period for up to an additional 30 calendar days.

## **CHAPTER 611. EMPLOYEES IN THE CLASSIFIED SERVICE**

### **SUBCHAPTER A. PROBATIONARY PERIODS AFTER APPOINTMENT OR PROMOTION**

Proposed § 611.1 directs that employees in the classified service shall serve a probationary period after an appointment or promotion, unless otherwise stated in the Civil Service Reform Act or the proposed rulemaking. This provision stems from 71 Pa.C.S. §§ 2404 and 2605, which make clear that an employee must serve a probationary period after an appointment or promotion.

Proposed § 611.2 addresses the duration and extension of probationary periods. Under the proposed regulation, the minimum length of a probationary period shall be six months and the full length shall be determined by the Office of Administration. The proposed regulation also sets forth that a probationary period may be extended by the appointing authority to a maximum of 18 months, and the appointing authority must notify the Office of Administration of such extension. This provision implements 71 Pa.C.S. § 2404(a)(2), which establishes the minimum and maximum duration of a probationary period.

Proposed § 611.3 addresses probationary periods following a reassignment or transfer. Subsection (a) sets forth that an employee who has achieved regular status and who is appointed through reassignment or transfer shall retain regular status. Subsection (b) requires an employee, who has never achieved regular status, to continue to serve the unexpired portion of their probationary period after a reassignment or transfer, or to being a new probationary period if doing so was a condition of their appointment. The basis for this proposed regulation is 71 Pa.C.S. § 2502(c), which permits the Office of Administration to establish the manner by which transfers and reassignments shall be accomplished.

Proposed § 611.4 addresses probationary periods following demotion. Subsection (a) sets forth that an employee who has achieved regular status and who is demoted shall retain regular status. Subsection (b) addresses the demotion of an employee who has never achieved regular status. Notably, the Civil Service Reform Act does not address an employee's status following a demotion; as such, the proposed regulation is intended to fill this gap in a manner consistent with 71 Pa.C.S. § 2404(a)(1), which states that no appointment or promotion will be considered complete until the expiration of a probationary period.

Proposed § 611.5 addresses probationary periods following reinstatement. Under the proposed regulation, an appointing authority may waive the probationary period if the former employee is reinstated within 2 years. If more than 2 years have expired since the former employee's resignation, the former employee shall serve the probationary period. As with demotions, the Civil Service Reform Act does not address an employee's status following reinstatement. Accordingly, the proposed regulation is intended to fill this gap in a manner consistent with 71 Pa.C.S. § 2404(a)(1), which states that no appointment or promotion will be considered complete until the expiration of a probationary period.

Proposed § 611.6 addresses probationary periods following promotion. Subsection (a) sets forth that an employee who has achieved regular status and who is promoted shall serve a

probationary period, subject to the enumerated conditions. Subsection (b) addresses the status of employees returned from promotion. Subsection (c) sets forth that an employee who is promoted and who has never held regular status in the classified service does not have a right to return to a probationary status position previously held. Where such an employee fails the probationary period of the higher-level position, without having attained regular status in the position held prior to promotion, the employee will be separated by the appointing authority. The basis for the proposed regulation is 71 Pa.C.S. §§ 2404 (relating to probationary period), 2604 (relating to removal during probationary period), and 2605 (relating to rights of promoted employee during probationary period).

Proposed § 611.7 addresses the probationary periods of trainees. Subsection (a) sets forth that a trainee shall maintain the status of a probationary employee. Subsections (b) and (c) set forth the minimum and maximum time periods for the probationary period, including extensions. Subsection (d) and subsection (e) set forth the promotion or removal provisions for trainees at the end of their probationary periods. The basis for the proposed regulation is 71 Pa.C.S. § 2404 (relating to probationary period).

Proposed § 611.8 addresses the probationary periods of interns. Subsection (a) sets forth that an intern shall maintain the status of a probationary employee. Subsection (b) sets forth the minimum and maximum time periods for the probationary period. Subsection (c) concerns promotions after internships. Subsection (d) and subsection (e) set forth the promotion or removal provisions for interns at the end of their probationary periods. Although the Civil Service Reform Act does not address classified service internship, as noted previously, the Executive Board, which has the exclusive authority over the Commonwealth's classification system pursuant to Section 709 of The Administrative Code of 1929 (71 P.S. § 249), frequently creates intern job classifications, which meet the definition of classified service under 71 Pa.C.S. § 2103 (relating to definitions) and, therefore, must be included in the classified service. Because 71 Pa.C.S. § 2404(a) requires every employee complete a probationary period, the Office of Administration, pursuant to its broad authority under 71 Pa.C.S. § 2202 (relating to duties of Office of Administration) developed the proposed regulation to address the gap in the Civil Service Reform Act.

Proposed § 611.9 addresses credit towards probationary period. Under the proposed regulation, a probationary employee who is temporarily assigned the duties of a higher-level position shall have the period during which they are performing the higher-level duties credited toward the lower-level probationary period, and where an appointing authority reassigns a probationary employee to another position in the same or a similar job classification within the appointing authority, the employee shall be credited with time served in the previous position toward the completion of the probationary period required for the present position. Notably, the Civil Service Reform Act is silent with respect to credit towards an employee's probationary period. Therefore, the Office of Administration, pursuant to its broad authority under 71 Pa.C.S. § 2202 (relating to duties of Office of Administration) developed the proposed regulation to address the gap in the Civil Service Reform Act.

Proposed § 611.10 addresses the effect of a leave of absence on a probationary period. Under the proposed regulation, leaves of absence shall not count towards probationary periods,

and an appointing authority may require a new, full probationary period after a leave of absence exceeding 30 consecutive days. Although 71 Pa.C.S. § 2608 addresses leaves of absence from the classified service, the Civil Service Reform Act does not address the impact of a leave of absence on a probationary period. Therefore, the Office of Administration, pursuant to its broad authority under 71 Pa.C.S. § 2202 (relating to duties of Office of Administration) developed the proposed regulation to address the gap in the Civil Service Reform Act.

Proposed § 611.11 addresses the effect of a leave of absence for military duty on a probationary period. Under the proposed regulation, leaves of absence for military duty shall not count towards probationary periods. Although 71 Pa.C.S. § 2403 addresses filling of a vacancy left by employee who takes a leave of absence for military duty, the Civil Service Reform Act is silent with respect to the impact of such a leave of absence on a probationary period. To fill this gap, the Office of Administration developed the proposed regulation.

Proposed § 611.12 addresses the conferment of regular status and removal of probationary employees, and it implements 71 Pa.C.S. § 2404 (relating to probationary period). Subsection (a) and subsection (b) set forth that appointing authorities shall evaluate the employee's performance. Subsection (c) and subsection (d) detail the conferment of regular status or removal of a probationary employee based upon the performance evaluation.

## **SUBCHAPTER B. EMPLOYEE PERFORMANCE EVALUATIONS**

Proposed § 611.13 addresses performance evaluations of employees in the classified service. Specifically, the proposed regulation, which implements 71 Pa.C.S. § 2501 (relating to performance ratings), requires appointing authorities to establish and maintain a job-related system of performance evaluations for employees in the classified service. Such performance evaluations are subject to the review and approval of the Office of Administration.

Proposed § 611.14 sets forth the time frame for completing performance evaluations, requiring that they be completed at least once each year, unless a different schedule is approved by the Office of Administration. The basis for the proposed regulation is implements 71 Pa.C.S. § 2501 (relating to performance ratings).

Proposed § 611.15 concerns retention of performance evaluations and review by the Office of Administration. Specifically, the proposed regulation requires that appointing authorities retain copies of a regular employee's performance evaluation for a period of 3 years. The proposed regulation further provides that, upon request by the Office of Administration, performance evaluations shall promptly be made available by an appointing authority to the Office of Administration. The basis for the proposed regulation is implements 71 Pa.C.S. § 2501 (relating to performance ratings).

Proposed § 611.16 sets forth the protocol for appointing authorities to provide the results of a performance evaluation to an employee and the employee's opportunity to review the performance evaluation. The basis for the proposed regulation is implements 71 Pa.C.S. § 2501 (relating to performance ratings).

Proposed § 611.17 enumerates the uses of performance evaluations. Specifically, performance evaluations may be utilized for purposes of determining eligibility for promotion, to assist in establishing priority for promotion, or for determining order of furlough. The basis for the proposed regulation is implements 71 Pa.C.S. § 2501 (relating to performance ratings).

#### **SUBCHAPTER C. MOVEMENT OF EMPLOYEES BY APPOINTING AUTHORITIES**

Proposed § 611.18 addresses reassignment by appointing authority and effectuates 71 Pa.C.S. § 2502(c), which permits the Office of Administration to develop the method by which employees can be reassigned in the classified service. Under the proposed regulation, an appointing authority may reassign an employee to another position in the same or similar job classification. The Office of Administration will determine whether job classifications are similar by reviewing whether the job classifications are in the same occupational field and whether movement from one job classification to the other job classification represents a logical career movement for the employee. If either factor is met, the job classifications shall be considered similar.

Proposed § 611.19 addresses transfer by appointing authority and effectuates 71 Pa.C.S. § 2502(c), which permits the Office of Administration to develop the method by which employees can be transferred in the classified service. Under the proposed regulation, appointing authorities, upon agreement, may transfer an employee to another position in the same job classification with a different appointing authority. A transfer must be approved by the Office of Administration, and the Office of Administration can disapprove a transfer if it is not in compliance with the act and the proposed rulemaking, or if it otherwise violates merit principles.

Proposed § 611.20 provides that an appointing authority may demote an employee who does not satisfactorily perform their duties to a position in any job classification that the employee previously held regular status, or to any position for which the employee is qualified. The basis for this proposed regulation is 71 Pa.C.S. § 2503 (relating to demotions).

Proposed § 611.21 specifies the provisions of §§ 611.1-611.12 (relating to probationary periods after appointment or promotion) shall apply to appointments made in accordance with this subchapter. The basis for this proposed regulation is 71 Pa.C.S. § 2404 (relating to probationary period).

#### **SUBCHAPTER D. RECLASSIFICATIONS BY THE OFFICE OF ADMINISTRATION**

Proposed § 611.22 addresses reclassifications and effectuates 71 Pa.C.S. § 2505 (relating to effect of reclassifications). Subsection (a) details when a reclassification is required. Subsections (b) through (c) detail the process for an appointing authority to request reclassification review by the Office of Administration, and the Office of Administration's approval or denial.

Proposed § 611.23 provides that an employee reclassified laterally or to a lower-level job classification shall retain their current status. The basis for the proposed regulation is 71 Pa.C.S. § 2505 (relating to effect of reclassifications).

## **SUBCHAPTER E. COMPENSATION**

Proposed § 611.24 provides that the effect of changes in compensation schedules, with no significant change in job specifications, will have no effect upon status and seniority and are not promotions or demotions. This proposed regulation is intended to acknowledge that the Executive Board will frequently update pay scales for job classifications within the classified service pursuant to Section 709 of The Administrative Code of 1929 (71 P.S. § 249).

## **CHAPTER 612. SEPARATION OF EMPLOYEES FROM THE CLASSIFIED SERVICE**

### **SUBCHAPTER A. LEAVES OF ABSENCE**

Proposed § 612.1 addresses leaves of absence and effectuates 71 Pa.C.S. § 2608 (relating to leave of absence). Subsections (a) through (c) set forth that an employee shall submit a written request for a leave of absence, which shall be for a definite period not to exceed two years, and which may be granted at the discretion of the appointing authority. Subsection (d) provides that an employee may submit a written request to extend this leave of absence, not to exceed 12 years. Notably, the Civil Service Reform Act does not address issues concerning the duration of a leave of absence. Under the former practice of the State Civil Service Commission, leaves of absence were granted for a definite period not to exceed two years, with the option to be extended up to 12 total years. For continuity after the enactment of the Civil Service Reform Act, the Office of Administration, pursuant to its general authority under 71 Pa.C.S. § 2202(a) to implement and administer the merit system, adopted the practice of the State Civil Service Commission. Subsection (e) enumerates the employee's return rights. Subsection (f) provides that certifications from a preferred reemployment list shall take precedence over all other eligible lists and referrals from internal recruitment methods. Finally, subsection (g) clarifies the scope of these leaves of absence shall not apply for military service and leaves of absence for employment in the Senior Management Service.

Proposed § 612.2 addresses leaves of absence for military duty and is intended to implement 71 Pa.C.S. § 2608 (relating to leave of absence), as well as ensure compliance with the Uniformed Services Employment and Reemployment Rights Act, as amended (38 U.S.C.A. §§ 4301-4335). Subsection (a) instructs that an appointing authority shall grant a leave of absence to an employee for military duty. Subsection (b) addresses the method for which an employee may seek a leave of absence for military duty. Subsection (c) provides that the duration of the leave of absence shall coincide with the duration of the employee's military duty and subsection (d) affirms an employee on a leave of absence for military duty shall have a guaranteed right of return, as prescribed by the Uniformed Services Employment and Reemployment Rights Act, as amended (38 U.S.C.A. §§ 4301-4335).

Proposed § 612.3 addresses vacancies due to leaves of absence for military duty. The basis for the proposed regulation is 71 Pa.C.S. § 2403 (relating to substitution during military leave). Subsection (a) provides that the vacated position shall be left vacant or filled by a substitute employee. Subsection (b) addresses the process for which the substitute employee shall vacate the position upon the return of the incumbent, and subsection (c) addresses the process for which a substitute employee shall be converted to a permanent position upon failure of the incumbent to

return to the position within the time frame provided by the Uniformed Services Employment and Reemployment Rights Act, as amended (38 U.S.C.A. §§ 4301-4335). Finally, subsection (d) addresses the rights of the substitute employee.

Proposed § 612.4 addresses leaves of absence for Senior Management Service employment and is based upon 71 Pa.C.S. § 2608 (relating to leave of absence). Subsections (a) and (b) provide that an employee who accepts a Senior Management Service position shall be granted a leave of absence for the duration coinciding with their employment in the Senior Management Service. Finally, subsection (c) sets forth the circumstances under which an appointing authority may remove an employee from a Senior Management Service position without the need to first return the employee to a classified service position.

### **SUBCHAPTER B. FURLOUGH**

Proposed § 612.5 addresses furlough and implements 71 Pa.C.S. § 2602 (relating to furlough). Subsection (a) dictates that a furlough shall occur only because of a lack of funds or a lack of work. Subsection (b) defines the term “furlough units” and dictates the use of furlough units. Subsections (c) and (d) provide the order of furlough as employees in provisional, temporary, emergency, probationary, and regular statuses. Subsections (e) through (g) establish an employee’s rights before and after furlough. Subsection (h) enumerates the requirements of certifying reemployment lists of furloughed employees. Subsections (i) and (j) establish the protocols for refusals of reemployment, from mandatory and optional reemployment lists. Finally, subsection (k) provides that collective bargaining agreements, if such exist, are controlling.

### **SUBCHAPTER C. REMOVAL AND SUSPENSION**

Proposed § 612.6, which implements 71 Pa.C.S. § 2607 (relating to removal), establishes that just cause for removal of a regular employee must be based on at least one merit-related reason.

Proposed § 612.7 addresses suspensions and implements 71 Pa.C.S. § 2603 (relating to suspension). Under the proposed regulation, an appointing authority may suspend an employee for good cause, which shall be based on at least one merit-related reason. Subsections (a) and (b) also detail the rules governing suspensions pending investigations and the duration of suspensions.

### **SUBCHAPTER D. RESIGNATION**

Proposed § 612.8 establishes the criteria for a resignation and is based upon 71 Pa.C.S. § 2606 (relating to resignation). Specifically, the proposed regulation requires that a notice of resignation be evidenced by an affirmative statement, either written or oral, of the employee’s intent to resign.

Proposed § 612.9 establishes the criteria for determining the effective date of resignations. Under the proposed regulation, when an employee gives notice of the effective date of resignation, the employee will cease work on the specified date. When an employee does not specify an effective date of resignation, the resignation shall take effect immediately. A resignation submitted during or at the termination of a leave of absence shall be effective on the date submitted. Notably,

although 71 Pa.C.S. § 2606 addresses resignations, it does not address the effective date of resignations. To fill this gap, the Office of Administration developed the proposed regulation.

Proposed § 612.10, which implements 71 Pa.C.S. § 2606(b), addresses acceptance or rejection of resignations. Subsection (a) sets forth that an appointing authority shall respond to an employee's notice of resignation. Subsection (b) provides that resignations will not bar an appointing authority's ability to remove an employee for causes that occur or become known during the period between the acceptance and the effective date of the resignation. Subsections (c) and (d) address an employee's withdrawal of resignation and an appointing authority's rescission of acceptance after resignation, respectively.

## **SUBCHAPTER E. SENIORITY**

Proposed § 612.11 addresses breaks in service. Subsection (a) enumerates what constitutes a break in service for the purposes of seniority. Subsections (b) through (d) establish the effect of a break in service, furlough, leaves of absence, and involuntary demotions on seniority. The basis for this proposed regulation is 71 Pa.C.S. § 2609 (relating to seniority), which is silent regarding what constitutes a break in service and the impacts of a furlough, leaves of absence, and involuntary demotions on seniority.

### **CHAPTER 613. ENFORCEMENT OF ACT; PROHIBITIONS AND PENALTIES**

#### **SUBCHAPTER A. OFFICE OF ADMINISTRATION REVIEW OF LEGALITY OF EMPLOYMENT ACTIONS**

Proposed § 613.1 addresses reporting requirements. Specifically, under the proposed regulation, an appointing authority shall promptly report appointments, promotions, or changes in position or job classification to the Office of Administration. This proposed regulation effectuates the Office of Administration's general authority to ensure proper administration of the classified service, as set forth in 71 Pa.C.S. § 2202 (relating to duties of Office of Administration).

Proposed § 613.2 establishes that the Office of Administration will notify the appointing authority in writing of personnel actions not in accordance with the act. This proposed regulation effectuates the Office of Administration's general authority to ensure proper administration of the classified service, as set forth in 71 Pa.C.S. § 2202 (relating to duties of Office of Administration).

#### **SUBCHAPTER B. PROHIBITION ON POLITICAL ACTIVITY**

Proposed § 613.3, which implements 71 Pa.C.S. § 2705 (relating to political activity), addresses the scope of prohibitions on political activity by employees in the classified service. Subsection (a) provides that the provisions of 71 Pa.C.S. § 2705 (relating to political activity) shall not apply to employees who are on furlough, who are on a leave of absence, or who are on a leave covered under Chapter 53 of the State Employees' Retirement Code in 71 Pa.C.S. § 5302(b) (relating to credited state service). This is consistent with the dictates of *Pinto v. State Civil Service Commission*, 912 A.2d 787 (Pa. 2006). Subsection (b) addresses employees elected to public office prior to appointment into the classified service. Specifically, since the prohibitions of 71 Pa.C.S. § 2705 (relating to political activity) apply only to employees, the proposed regulation

makes clear that an employee, who was elected to public office prior to appointment into the classified service, may serve the remainder of the employee's term, provided there is no conflict of interest.

## **SUBCHAPTER C. INVESTIGATIONS; NOTICE OF VIOLATIONS AND PENALTIES**

Proposed § 613.4 empowers the Office of Administration to investigate allegations of violations of the act by an employee and sets forth the procedure of investigations and notices of violations and penalties. Subsection (c) provides that the Office of Administration may convene hearings to determine violations, and subsection (d) provides that the Office of Administration will afford notice to appointing authorities of employee violations, including corrective actions required. Subsections (e) through (g) enumerate the penalties for violations, including the ability of the Office of Administration to order the removal of an employee and render an employee ineligible for reappointment for a period of time, as determined appropriate by the Office of Administration. Such periods of ineligibility are determined based on the circumstances presented and can range between a few months to an indefinite period of time. Because circumstances are often unique, it would be nearly impossible to set specific time frames in the proposed regulation. However, to ensure consistency based on similar circumstances, the Office of Administration tracks the imposition of penalties to ensure that penalties are imposed in an equitable manner. In making determinations, OA looks at the circumstances and any mitigating factors. The basis for the proposed regulation is 71 Pa.C.S. § 2202(a)(10), which empowers the Office of Administration to investigate possible violations of the Civil Service Reform Act, 71 Pa.C.S. § 2702(b), which requires the removal of an employee if the employee intentionally fails to disclose a material fact or in any manner conceals information in order to obtain employment or promotion, 71 Pa.C.S. § 2705, which requires the Office of Administration to either remove or suspend an employee who violates the political activity prohibitions, and 71 Pa.C.S. § 2706(a), which requires an employee who intentionally violates Chapter 27 of the Civil Service Reform Act be immediately removed.

## **CHAPTER 614. PERSONNEL ACTIONS**

### **PERSONNEL ACTIONS**

Proposed § 614.1 provides a comprehensive list of personnel actions under the Civil Service Reform Act and the proposed rulemaking. Notably, while the Civil Service Reform Act uses the term "personnel action" numerous times, it fails to define the term. Therefore, pursuant to its broad authority to administer the classified service, as set forth in 71 Pa.C.S. § 2202 (relating to duties of Office of Administration), the Office of Administration developed proposed § 614.1 to fill the gap in the Civil Service Reform Act.

Proposed § 614.2, which implements 71 Pa.C.S. § 2801 (relating to notice), addresses notices of personnel actions. Specifically, subsection (a) requires appointing authorities to provide written notice of a personnel action to an affected employee. Subsection (b) sets forth the required content of said notice. Subsection (c) provides that personnel actions take effect immediately upon notice to the employee, unless otherwise stated by the Office of Administration. Subsection (d) requires appointing authorities to provide simultaneous copies of notices to the Office of

Administration. Subsection (e) dictates that the requirements in this section are mandatory, except as provided in subsection (f), which addresses resignations.

Proposed § 614.3 addresses signatory authority. Under the proposed regulation, notices of personnel actions must be signed by the head of the appointing authority or an authorized designee thereof. Subsection (b) and subsection (c) delineate the authorization of designees. Subsection (d) establishes that notices of personnel actions bearing the signature of the head of the appointing authority or their designee shall create a rebuttable presumption that they had proper authority to issue the notice. Notably, while 71 Pa.C.S. § 2801 addresses notices of personnel actions, it does not address who is authorized to sign such notices. Therefore, to address the void in 71 Pa.C.S. § 2801, the Office of Administration, pursuant to its broad authority to administer the classified service, as set forth in 71 Pa.C.S. § 2202 (relating to duties of Office of Administration), developed the proposed regulation.

## **CHAPTER 615. PRACTICE AND PROCEEDINGS BEFORE THE OFFICE OF ADMINISTRATION**

### **SUBCHAPTER A. GENERAL PROVISIONS**

Proposed §§ 615.1–615.29 concern hearings held by the Office of Administration. These proposed regulations implement 71 Pa.C.S. §§ 2202(a)(10), which empowers the Office of Administration to hold hearings and issue orders to ensure compliance with the Civil Service Reform Act; 2202(a)(11), which empowers the Office of Administration to administer oaths and require testimony and the production of documents and records; 2202(b) which empowers the Office of Administration to issue subpoenas; and 2307(d), which requires the Office of Administration to hold a public hearing prior to canceling an eligible list due to illegality or fraud.

Proposed § 615.1 sets forth that proposed Chapter 615 supersedes 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and it is not applicable to activities of and proceedings before the Office of Administration.

Proposed § 615.2 affirms that all hearings scheduled by the Office of Administration shall have public notice and be open to the public.

Proposed § 615.3 establishes that hearings scheduled by the Office of Administration shall be conducted by a presiding officer designated by the Secretary of Administration.

Proposed § 615.4 sets forth the rules of computation of time for proceedings under this subchapter. Specifically, when any period of time is referred to in this chapter, such period in all cases shall be so computed as to exclude the first and include the last day of such period. Whenever the last day of any such period shall fall on Saturday, Sunday or a legal holiday under the laws of this Commonwealth or the United States, such day shall be omitted from the computation.

Proposed § 615.5 establishes general document filing protocol and timeliness requirements with the Docket Clerk. Specifically, documents can be filed by first class mail or electronic mail. When a document is filed with the Docket Clerk by first class mail, the date of mailing, as

evidenced by the United States Postal Service postmark on the envelope containing the filing, a United States Postal Service Form 3817 (Certificate of Mailing), or another similar United States Postal Service form from which the date of deposit with the United States Postal Service can be determined, shall be deemed the date of filing. When a document is filed with the Docket Clerk by electronic mail, the date of receipt recorded by the Docket Clerk's electronic mail system shall be deemed the date of filing. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

## **SUBCHAPTER B. HEARINGS UNDER SECTION 2202(a)(10) OF THE ACT**

Proposed § 615.6 addresses orders to show cause. Under the proposed regulation, the Office of Administration shall commence a proceeding through filing a verified order to show cause with the Docket Clerk. Subsections (b) through (d) set forth the filing requirements of said order to show cause.

Proposed § 615.7 addresses answers to orders to show cause. Under the proposed regulation, the respondent shall file an answer within 20 days of the date of service with the Docket Clerk. Subsections (b) and (c) set forth the filing requirements of said answer. Subsection (d) addresses the failure of a respondent to file an answer.

Proposed § 615.8 outlines the requirements for representation of parties appearing before the Office of Administration. Specifically, under the regulation, a respondent may appear before the Office of Administration on their own behalf, or they may be represented by an attorney licensed to practice law in the Commonwealth of Pennsylvania or a legal intern certified by the Supreme Court of Pennsylvania. An appointing authority shall be represented by an attorney licensed to practice law in the Commonwealth of Pennsylvania or a legal intern certified by the Supreme Court of Pennsylvania.

Proposed § 615.9 provides that proceedings may be consolidated at the discretion of the Office of Administration.

Proposed § 615.10 provides that proceedings may be severed at the discretion of the Office of Administration.

Proposed § 615.11 addresses notices of hearing and their content. Specifically, notice of a hearing must be provided to the parties in advance. The notice will contain a statement of the matters to be addressed at the hearing, as well as specific instructions regarding the date, time, and place of hearing.

Proposed § 615.12 sets forth that presiding officers may grant continuances and sets forth the required content of continuance requests. Continuance requests may be granted upon a showing of good cause. The requests shall be submitted as far in advance of the scheduled hearing date as possible, be made in writing, and must state the specific reason(s) for the continuance request. A copy of a request for a continuance shall be simultaneously served on the non-requesting party.

Proposed § 615.13 sets forth the procedure for requesting subpoenas, the service requirements of subpoenas, and the enforcement of subpoenas. Requests for subpoenas must be submitted, in writing, to the presiding officer. A written request shall specify the relevance of the testimony or documentary evidence sought. For documentary evidence, the request must specify, to the extent possible, the documents desired and the facts to be proved thereby. A subpoena for new or additional witnesses will not be issued after a hearing has been started and continued unless orally requested on the record at the hearing and approved by the presiding officer; except that subpoenas issued prior to the start and continuance of the hearing may be reissued upon written request. A subpoena for the attendance of a witness must be personally served on the witness at least 48 hours prior to the hearing, unless the witness agrees to waive the 48-hour requirement. A subpoena for the production of documents may be served personally, by mail, by facsimile machine, or by other electronic means upon the individual in possession of the documents, the legal counsel for the entity or individual in possession of the documents, or the designated custodian of the documents. A subpoena for the production of documents shall be served no later than 10 business days prior to hearing. Failure to comply with the proposed regulation may result in the subpoena not being issued or enforced.

Proposed § 615.14 enumerates the discretionary authority of the presiding officer, including the authority to determine the order of procedure, administer oaths and affirmations, receive evidence, rule upon objections and offers of proof, and take other actions as necessary to properly regulate the hearing.

Proposed § 615.15 establishes the form of hearings before the Office of Administration. Specifically, a hearing before the Office of Administration shall be formal but need not adhere to the technical rules of evidence or procedure. In cases involving issues of fact, oral testimony shall be under oath or affirmation.

Proposed § 615.16 sets forth the protocol when a properly notified party fails to appear at a hearing. Specifically, where a party fails to appear after proper notice, the presiding officer may nevertheless hold the hearing and render a decision.

Proposed § 615.17 establishes the ability to conduct additional hearings and submit additional relevant evidence.

Proposed § 615.18 directs that a complete record of proceedings shall be made, and it further provides that such records may be purchased directly with the reporting service or reviewed at the Office of Administration's office in Harrisburg, Pennsylvania.

Proposed § 615.19 sets forth the protocol, schedule, form, and service requirements of post-hearing briefs. Briefs shall be filed with the Docket Clerk and include a statement of facts and a discussion of legal arguments. Filing and service of the brief shall occur simultaneously.

Proposed § 615.20 requires that the presiding officer issue a proposed decision and order upon the closing of the record. Subsection (b) sets forth the required content of the proposed decision and order. Proposed decision and order must be well reasoned, supported by the facts

and applicable law. Subsection (c) establishes that a proposed decision and order shall be deemed final in 20 days unless exceptions are timely filed with the Secretary of Administration.

Proposed § 615.21 establishes the ability for the filing of exceptions to a proposed decision and order within 20 days of the date of the proposed decision and order. Further, the proposed regulation sets forth the content and service requirements of exceptions and sets forth that failure to file exceptions constitutes a waiver of all objections to the proposed decision and order. Exceptions must state the specific issues of procedure, fact or law, or other portion of the proposed decision and order to which each exception is taken. Filing and service of exceptions shall occur simultaneously.

Proposed § 615.22 sets forth the form and service requirements of briefs opposing exceptions. Filing and service of a brief opposing exceptions shall occur simultaneously.

Proposed § 615.23 prohibits further responses or pleadings after the time period for filing a post-hearing brief, unless ordered by the Secretary of Administration.

Proposed § 615.24 requires that the Secretary of Administration or their designee, upon reviewing the entire record, shall issue a final decision and order. Final orders may affirm, modify, or reverse the findings of credibility and fact, the conclusions of law, and the decision of the presiding officer as the secretary deems appropriate on the basis of all of the record evidence.

### **SUBCHAPTER C. LIST CANCELLATION HEARINGS**

Proposed § 615.25 provides that the Office of Administration shall hold a hearing prior to cancelling the whole or part of an eligible list due to illegality or fraud in accordance with 71 Pa.C.S. § 2307(d) (relating to duration of eligible lists).

Proposed § 615.26 requires the Office of Administration shall provide advance notice of a list cancellation hearing to those eligibles whose names appear on the relevant list. The proposed regulation sets forth the content of the advance notice.

Proposed § 615.27 sets forth the format of list cancellation hearings. Specifically, at the start of the hearing, the presiding officer shall make a statement describing the circumstances necessitating the cancellation of the list, including the findings and conclusions of any investigation undertaken by the Office of Administration. Thereafter, each eligible whose name appears on the relevant list and objected, in writing, to the cancellation will be given an opportunity to state their objections, under oath or affirmation, on the record. After all objections are heard, the presiding officer shall adjourn the hearing, and the record shall be considered closed.

Proposed § 615.28 directs that a complete record of proceedings shall be made, and such records may be purchased directly with the reporting service or reviewed at the Office of Administration's office in Harrisburg, Pennsylvania.

Proposed § 615.29 establishes notice requirements in the event of a list cancellation after the hearing. Specifically, where a list is cancelled, the Office of Administration must provide notice of the cancellation of the list to those eligibles whose names appeared on the relevant list.

#### *Affected Individuals and Organizations*

The proposed rulemaking will affect state and local governmental entities that utilize the Commonwealth's merit system of employment, individuals who are employed in classified service positions, and individuals who are seeking employment in the classified service. There are no private sector business entities that will be affected by this proposed rulemaking.

#### *Fiscal Impact*

The proposed rulemaking should have minimal adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking does not change the current reimbursement structure for use of the Office of Administration's merit employment services, nor do they add specific additional expenses to administration of the classified service.

#### *Paperwork Requirements*

Appointing authorities seeking to solicit applicants for a vacant classified service position must do so using the vacancy posting form available through the Office of Administration's applicant tracking tool.

Individuals seeking to apply for employment in the classified service must do so using the application form available through the Office of Administration's applicant tracking tool.

#### *Effective Date*

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

The Office of Administration continuously monitors its regulations, as required by Executive Order 1996-1. Therefore, no sunset date has been assigned.

#### *Public Comments*

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin*. Public comments should be addressed to Joshua Fisher, Attention: CSRR Public Comments, Office of Administration, Office of Chief Counsel, 408 Finance Building, 613 North Street, Harrisburg, Pennsylvania 17120.

*Contact Person*

The contact person for questions about the proposed rulemaking is Joshua Fisher, (717)-783-2590.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 11, 2024, the Office of Administration submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House State Government Committee and the Senate State Government Committee. A copy of this material is available to the public upon request and is available on the Office of Administration's web site at <http://www.oa.pa.gov>.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), IRRC may convey any comments, recommendations, or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations, or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Office of Administration, the General Assembly, and the Governor.

NEIL R. WEAVER,  
*Secretary*

**Annex A**

**TITLE 4. ADMINISTRATION**

**PART XV. OFFICE OF ADMINISTRATION**

**Subpart B. CIVIL SERVICE REFORM**

**CHAPTER 608. GENERAL PROVISIONS**

**GENERAL PROVISIONS**

Sec.

608.1. Short title.

608.2. Purpose.

608.3. Definitions.

608.4. Veterans' preference.

608.5. Age preference.

608.6. Reasonable accommodations.

608.7. Service to departments, boards and commissions, agencies and political subdivisions;  
reimbursement for services.

608.8. Electronic records and signatures.

**§ 608.1. Short title.**

This subpart shall be known and cited as the "Civil Service Reform Regulations."

**§ 608.2. Purpose.**

(a) This subpart is designed to effectuate civil service reform, as required by 71 Pa.C.S. Part III

(relating to civil service reform).

(b) This subpart implements and supplements 71 Pa.C.S. Part III and is to be read together with

the applicable provisions of the act.

**§ 608.3. Definitions.**

(a) The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The act of June 28, 2018 (P.L. 460, No. 71) 71 Pa.C.S. Part III, commonly referred to as “the Civil Service Reform Act.”

*Alternate rule*—An alternative selection rule elected by an appointing authority for appointments and promotions made through the examination and certification process, which gives the appointing authority the ability to select from all eligibles on an appropriate eligible list or a specific alternate number of eligibles on an appropriate eligible list, greater than three, to fill a position.

*Applicant*—An individual who applies for an appointment or a promotion to a position in the classified service.

*Application*—A form, as prescribed by the Office of Administration, used by individuals to express interest in employment in a position or positions in the classified service.

*Appointment*—The hiring or movement of an individual to a position through entrance examination, reassignment, transfer, demotion or reinstatement. The term does not include the movement of an individual to a position through promotion.

*Certification*—The submission of the names of one or more eligibles by the Office of Administration to an appointing authority to fill one or more positions.

*Disability*—As defined by the Americans with Disabilities Act of 1990, as amended (42 U.S.C.A. §§ 12101—12213).

*Emergency appointment*—The temporary and limited appointment of an individual to a position to meet an appointing authority’s needs during an emergency.

*Emergency employee*—An individual temporarily appointed to a position through an emergency appointment.

*Examination*—A test, series of tests, or assessments used to determine the degree to which

individuals are qualified for appointment or promotion to a position or job classification in the classified service.

*Intern*— An individual appointed or promoted to an intern job classification.

*Job classification*—A “job,” “job title,” “class” or “class of positions,” as defined by the act.

*Job specification*—A written description of a job classification, which defines and describes representative duties and responsibilities and sets forth the minimum qualifications of the job classification.

*Leave of absence*—A temporary and limited separation from the classified service granted by an appointing authority to an employee for purposes such as, but not limited to, extended illness, school attendance, cyclical employment, Olympic participation, military duty or training, or employment in a non-civil service position, including a position within the Senior Management Service. The term does not include paid absences, such as paid annual leave, paid sick leave, or paid compensatory leave, or unpaid absences that do not result in a separation from the classified service.

*Mandatory reemployment list*—A list of individuals who have been furloughed and who are eligible for a mandatory reemployment preference under § 612.5(f) (relating to furlough).

*Military duty*—Active duty, including active duty for training or inactive duty training, in the Uniformed Services on dates ordered or authorized by the Uniformed Service.

*Minimum qualifications*—The minimum knowledge, skills, abilities, experience, training, education, licenses, certificates, special requirements and other requisites essential to the performance of the work of a job classification, as set forth in the relevant job specification.

*Optional reemployment list*—A list of individuals who have been furloughed and who are eligible for reemployment under § 612.5(g).

*Preferred reemployment list*—A list of individuals who, upon the expiration or end of an approved leave of absence, could not be returned to a position in the same job classification under § 612.1(e)(1) or (2) (relating to leaves of absence generally).

*Probationary employee*—An individual serving a probationary period prior to acquiring regular status in a position.

*Probationary status*—The standing in a position held by a probationary employee.

*Provisional employee*—An individual who was appointed to a position through an accelerated entrance examination program and who is serving a 6-month working test period prior to the required probationary period.

*Reassignment*—The movement of an employee, within the same appointing authority, from one position to another position in the same or similar job classification for which the employee qualifies at the same maximum salary.

*Reclassification*—The change of a classification of a position from one job classification and code to another job classification and code.

*Referral*—The submission of the names of one or more applicants by the Office of Administration to an appointing authority in order to fill one or more positions through internal recruitment methods.

*Regular status*—The standing in a position conferred upon an employee who has successfully completed the corresponding probationary period.

*Reinstatement*—The reappointment of a former regular employee who resigned or otherwise voluntarily separated from employment in the classified service.

*Resignation*—The voluntary termination of employment by an employee, which is evidenced by the employee's written or verbal notice.

*Rule of three*—The default selection rule for appointments and promotions made through the examination and certification process, which requires an appointing authority to choose from among the three highest-ranking available eligibles to fill a vacant position. The rule of three may include more than three eligibles when tied scores exist with the third highest-ranking eligible.

*Senior Management Service*—Positions in the Commonwealth’s unclassified service that have broad policy participation and management responsibility.

*Seniority*—The amount of time an employee has continuously served in a position in the classified service.

*Separation*—The voluntary or involuntary termination of employment in the classified service, including temporary and permanent terminations.

*Special Advisor for Veterans’ Programs*—The individual appointed by the Secretary of Administration under 71 Pa.C.S. § 2202(a)(12) (relating to duties of Office of Administration).

*Substitute appointment*—The temporary appointment of an individual to a position that is vacant due to the granting of leave of absence for military duty to the incumbent of the position.

*Substitute employee*—An individual temporarily appointed or promoted to a position through a substitute appointment or a substitute promotion.

*Substitute promotion*—The temporary promotion of an individual to a position that is vacant due to the granting of military leave to the incumbent of the position.

*Suspension*—The temporary and involuntary separation of an employee from employment in the classified service.

*Temporary employee*—An individual appointed to a temporary position.

*Trainee*—An individual appointed or promoted to a training level job classification.

*Training period*—The period of time a trainee will remain in a training level job classification,

during which the trainee receives general or specialized training, or both.

*Transfer*—The movement of an employee from one appointing authority to a different appointing authority in the same job classification.

*Uniformed services*—As defined by Title 10, Subtitle A of the United States Code, as amended (10 U.S.C.A. § 101(a)(5)).

*Unskilled position*—A position for which the principal job function is manual labor or work requiring limited or no prior education or training.

*Vacancy posting*—A posted announcement of a vacant, or soon to be vacant, position or group of positions within an appointing authority, which will be filled by examination or an internal recruitment method.

*Veteran*—An individual who, based on their service in the armed forces of the United States, is eligible to receive an employment preference under 51 Pa.C.S. Chapter 71 (relating to veterans' preference).

(b) Words and terms not otherwise defined in this subpart have the meanings specified in the act.

#### **§ 608.4. Veterans' preference.**

(a) *Application of veterans' preference.*

(1) In determining standing on each certified eligible list, the Office of Administration will credit an additional 10 points to the final examination score obtained by a veteran, in accordance with 51 Pa.C.S. Chapter 71 (relating to veterans' preference).

(2) An appointing authority shall give preference to veterans in accordance with 51 Pa.C.S. Chapter 71.

(b) *Spouses.* The same employment preferences afforded to veterans under subsection (a) shall be afforded to surviving spouses and spouses of disabled veterans in accordance with 51 Pa.C.S. Chapter 71.

(c) *Required documentation.*

(1) *Veterans.* To establish veteran status, an individual shall submit to the Office of Administration, during the application process, a copy of their DD 214 (member 4 copy), DD 215, NGB-22, statement of service, documentation of projected discharge, or a similarly effective form issued by the United States Department of Defense relating to separation from military service, showing the date of entry into the military, character of service, and, where applicable, completion of the initial contractual military service obligation. An individual, who established their veteran status by submitting to the Office of Administration documentation of projected discharge, shall also submit to the Office of Administration a copy of their DD 214 (member 4 copy), DD 215, NGB-22, statement of service, or a similarly effective form issued by the United States Department of Defense relating to separation from military service, showing the date of entry into the military, character of service, and completion of the initial contractual military service obligation prior to starting the position for which they applied, if selected by the appointing authority.

(2) *Surviving spouses.* A surviving spouse shall submit, to the Office of Administration, a copy of the deceased veteran's documents, as set forth in subsection (c)(1), proof of marriage to the deceased veteran, and a certified copy of the deceased veteran's death certificate.

(3) *Spouses of disabled veterans.* A spouse of a disabled veteran shall submit, to the Office of Administration, documentation as required by the Office of Administration,

including a copy of the disabled veteran's documents, as set forth in subsection (c)(1), and a letter from the United States Department of Veterans Affairs verifying that the disabled veteran has a permanent total disability.

(d) *Certifications.* A certified eligible list will indicate an eligible's veteran status, as well as any additional examination points afforded to an eligible in accordance with 51 Pa.C.S. Chapter 71.

(e) *Special Advisor for Veterans' Programs.* The Secretary of Administration will appoint a Special Advisor for Veterans' Programs who shall be a veteran and will serve at the pleasure of the Secretary of Administration.

(f) *Audits and investigations.*

(1) The Office of Administration will provide the Special Advisor for Veterans' Programs a copy of the results of audits conducted by the Commission under 71 Pa.C.S. § 3304 (relating to audits of application of veterans' preference).

(2) The Special Advisor for Veterans' Programs may recommend investigations, as authorized under 71 Pa.C.S. § 2202(a)(10) (relating to duties of Office of Administration), of appointments or changes in employment in the classified service to ensure compliance with 51 Pa.C.S. Chapter 71.

#### **§ 608.5. Age preference.**

(a) In accordance with the act, this subpart and section 2203-A of the Administrative Code of 1929 (71 P.S. § 581-3(b)), the Department of Aging shall give preference to eligibles who are 60 years of age or older and within the rule of three or applicable alternate rule.

(b) Certified eligible lists issued to the Department of Aging will indicate those applicants with age preference status.

(c) Where a certified eligible list issued to the Department of Aging contains the names of an eligible qualifying for veterans' preference under 51 Pa.C.S. Chapter 71 (relating to veterans' preference), and an eligible qualifying for age preference under section 2203-A of the Administrative Code of 1929 (71 P.S. § 581-3(b)), the Department of Aging may select either eligible for appointment.

**§ 608.6. Reasonable accommodations.**

(a) *Equal employment opportunity.* The Commonwealth is an equal opportunity employer. Accordingly, the Office of Administration will ensure that vacancy postings, applications and examinations are accessible to individuals with disabilities, thereby providing an opportunity to fairly compete for and pursue career opportunities.

(b) *Reasonable accommodations.* Reasonable accommodations in the application and examination process will be provided to an individual with a disability upon request to the Office of Administration, in accordance with Federal and State law. Information on submitting requests for accommodations in the application and examination process shall be available on the Office of Administration's web site.

**§ 608.7. Service to departments, boards and commissions, agencies and political subdivisions; reimbursement for services.**

(a) *Acquisition of services.* The merit system employment services and facilities of the Office of Administration, and its staff, will be made available to departments, boards, commissions or agencies, and political subdivisions of the Commonwealth, under the following terms and conditions:

(1) A formal request for extension of the merit system employment services of the Office of Administration shall be made in writing and shall be signed by the executive head or

chair of the requesting department, board, commission, or agency, or the proper official of the political subdivision. If appropriate, the written request shall be accompanied by a resolution or similar document adopted by the board, commission, or agency, or by the proper official of the political subdivision.

(2) Granting of the request shall be evidenced by a formal written contract or agreement, consistent with this section, between the department, board, commission, agency, or political subdivision and the Office of Administration. The written contract or agreement shall include a provision addressing the termination of the contract or agreement.

(b) *Reimbursement for services.* Reimbursement for services provided by the Office of Administration shall be done in accordance with 71 Pa.C.S. § 2901 (relating to service and cooperation). At the request of the Office of Administration, the number of employees in the classified service in each appointing authority serviced shall be reported to the Office of Administration.

(c) *Compliance with act, regulations, and contract.* A personnel action taken by a department, board, commission, agency, or political subdivision under contract with the Office of Administration shall conform to the act, this subpart, and the contract executed under subsection (a)(3).

**§ 608.8. Electronic records and signatures.**

The Office of Administration or an appointing authority may, in its discretion, utilize and accept, in the form and manner prescribed by the Office of Administration or appointing authority, electronic records and electronic signatures, where written documents, forms, signatures or other required submissions are required by this subpart, provided that such records and signatures

comply with the Uniform Electronic Transactions Act (73 P.S. §§ 2260.301—2260.312), and other laws governing electronic records and signatures.

## **CHAPTER 609. CLASSIFICATION SYSTEM**

### **CLASSIFICATION SYSTEM**

Sec.

609.1. General.

609.2. Trainee job classifications.

609.3. Intern job classifications.

609.4. Minimum classifications.

609.5. Unclassified service.

#### **§ 609.1. General.**

In accordance with 71 Pa.C.S. § 2504 (relating to classification and compensation), the Office of Administration will utilize the Commonwealth's classification system, as established by the Board, for those positions within the classified service unless otherwise set forth in a written contract or agreement under § 608.7(a)(3) (relating to service to departments, boards and commissions, agencies, and political subdivisions; reimbursement for services).

#### **§ 609.2. Trainee job classifications.**

Subject to the approval of the Board, the Office of Administration, in cooperation with the appointing authorities, may designate specific jobs classifications for training purposes, provided the trainee classification corresponds to a working level job classification.

#### **§ 609.3. Intern job classifications.**

Subject to the approval of the Board, the Office of Administration, in cooperation with the appointing authorities, may designate specific job classifications for internship purposes,

provided the intern classification corresponds to one or more trainee job classification or working level job classification.

**§ 609.4. Minimum qualifications.**

(a) *Applicants.* To ensure that all employees in the classified service are qualified for their respective positions, applicants must meet the minimum qualifications for employment in the job classification for which the applicant applied.

(b) *Employees.* Employees in the classified service must meet the minimum qualifications for employment in the job classification in which the employee is employed. When the Office of Administration determines that an employee does not meet the minimum qualifications of the job classification in which the employee is employed, the Office of Administration shall take appropriate action to ensure conformance with the act.

**§ 609.5. Unclassified service.**

(a) *Requests for inclusion in the unclassified service.* If an appointing authority believes that a position or group of positions should be included in the unclassified service, as defined by 71 Pa.C.S. § 2103 (relating to definitions), the appointing authority shall submit to the Office of Administration a written request to include the position or group of positions in the unclassified service. The written request must include the basis for the request and all supporting documentation.

(b) *Requests based on participation in policy decisions.* When reviewing a request submitted under subsection (a), which is based on the position's participation in policy decisions, the Office of Administration may consider the following:

(1) The level of participation in policy decisions required of the position, including the level of independence and discretion exercised by the position in the formulation or implementation of agency policy.

(2) The degree of decision making exercised by the position.

(3) The position's organizational placement and pay assignment.

(c) *Requests based on limited term special study, project or internship.* When reviewing a request submitted under subsection (a), which is based on the position being used for a special study, project or internship that is scheduled to be completed after a fixed or limited period of time, the Office of Administration may consider the following:

(1) The type and nature of work performed by the position.

(2) The expected duration of the special study, project or internship.

(3) The reason the duties of the position should not be performed by a position in the classified service.

(4) Whether the position offers general work experience for a student enrolled in an educational program.

(5) Whether the position is an entry level employment opportunity for a student enrolled in an educational program.

**CHAPTER 610. APPOINTMENTS AND PROMOTIONS IN THE CLASSIFIED  
SERVICE**

**Subchap.**

- A. RESIDENCY REQUIREMENT**
- B. RECRUITMENT METHODS; SELECTIVE CRITERIA**
- C. VACANCY POSTINGS AND APPLICATION PROCESS**
- D. EXAMINATIONS**
- E. ESTABLISHMENT OF ELIGIBLE LISTS**
- F. CERTIFICATION OF ELIGIBLES**
- G. APPOINTMENT AND PROMOTION OF ELIGIBLES FROM CERTIFIED  
ELIGIBLE LISTS**
- H. APPOINTMENT AND PROMOTION THROUGH INTERNAL RECRUITMENT  
METHODS**
- I. EMERGENCY APPOINTMENTS**

**Subchapter A. RESIDENCY REQUIREMENT**

**§ 610.1. Residency requirement.**

(a) *Requirement.* An applicant seeking appointment or promotion to a position in the classified service shall be a resident or former resident of the Commonwealth. This subsection does not apply to an individual who was previously a regular employee and who is returned to employment from an approved leave of absence, through mandatory reemployment, or through contractual recall or placement rights.

(b) *Resident defined.* Except as otherwise provided in this subsection, a resident is an applicant whose current primary residence is within the Commonwealth.

(1) *College students.* Residents include an applicant who is attending a college, university or technical school outside of this Commonwealth, was a resident of this Commonwealth immediately prior to current scholastic enrollment, maintains a current Pennsylvania residential mailing address, and resides at said residential mailing address when their college, university, or technical school is not in session.

(2) *Members of the armed forces and their spouses.* An applicant who is a current active-

duty member of the armed forces of the United States, or who is the spouse of a current active-duty member of the armed forces of the United States, is a resident if the applicant meets either of the following:

(i) The applicant was a resident of this Commonwealth immediately prior to their or their spouse's most recent enlistment, the applicant or their spouse are scheduled to be discharged within 90 days of the applicant submitting their application to the Office of Administration, and the applicant intends to reside in the Commonwealth immediately after their discharge.

(ii) The applicant is currently living in this Commonwealth as part of their or their spouse's current enlistment, the applicant or their spouse are scheduled to be discharged within 90 days of the applicant submitting their application to the Office of Administration, and the applicant intends to reside in the Commonwealth immediately after their discharge.

(c) *Former resident defined.* A former resident of this Commonwealth is an applicant who relocated out-of-State for academic or employment purposes, plans to establish residency in this Commonwealth within 6 months of beginning employment in the classified service and has done one of the following:

(1) Graduated from a public, private or nonpublic secondary school in this Commonwealth, or satisfied the requirements set forth in sections 1327 and 1327.1 of the Public School Code of 1949, as amended (24 P.S. §§ 13-1327 and 13-1327.1), within 5 years of applying for a position in the classified service.

(2) Satisfied the requirements set forth in sections 1327 and 1327.1 of the Public School Code of 1949, as amended (24 P.S. §§ 13-1327 and 13-1327.1) or attended a public,

private or nonpublic school in this Commonwealth at least 80% of the time while enrolled in grades 1 through 12 within 5 years of applying for a position in the classified service.

(3) Graduated or attended a public, private or nonpublic secondary school in this Commonwealth, or satisfied the requirements set forth in sections 1327 and 1327.1 of the Public School Code of 1949, as amended (24 P.S. §§ 13-1327 and 13-1327.1), and graduated from a postsecondary institution in this Commonwealth within 5 years of applying for a position in the classified service.

(d) *Counties.*

(1) Upon the request and submission of justification by an appointing authority, the Office of Administration may limit certification for appointment or promotion to eligibles who are residents of a county within this Commonwealth, except that the limitations may not be imposed for a job classification for which the residency requirement has been waived in accordance with subsection (e).

(2) In the absence of eligibles who are residents of the county within this Commonwealth specified by the appointing authority, or upon exhaustion of a certified employment list or promotion list limited in accordance with paragraph (1), the Office of Administration may certify eligibles who are residents of contiguous counties or of this Commonwealth, as deemed appropriate by the Office of Administration.

(3) If an eligible changes residence from one county to another county of this Commonwealth, the Office of Administration may, upon request, transfer the eligible to the appropriate existing employment list or promotion list.

(e) *Waiver.* The Office of Administration, upon request by one or more appointing authorities, may waive the residency requirement for a vacancy, a job classification, or a group of similar job classifications when, notwithstanding sufficient recruitment methods, there is a demonstrated lack of qualified residents or former residents of this Commonwealth available for a particular occupation.

## **Subchapter B. RECRUITMENT METHODS; SELECTIVE CRITERIA**

Sec.

610.2. Recruitment methods.

610.3. Selective criteria.

### **§ 610.2. Recruitment methods.**

(a) *Generally.* Except as otherwise authorized by this section, recruitment for a vacant position in the classified service will be through examination. Examinations may be for a single position or for employment in a job classification generally.

(b) *Internal recruitment methods.* In lieu of examination, an appointing authority may limit recruitment methods for a position to only those applicants qualified for a promotion, transfer, reassignment, demotion or reinstatement, or any combination of these internal recruitment methods.

(c) *Specific locations.* When an appointing authority limits the recruitment methods for a position as set forth in subsection (b), it may further limit recruitment to only those applicants who are currently employed by the appointing authority or to only those applicants who are currently employed within a specific bureau, division, office, program area or section of the appointing authority.

(d) *Reemployment lists.* Where a preferred reemployment list or a mandatory reemployment list exists for the job classification to which there is a vacant position, an appointing authority shall

first attempt to fill the position using the applicable preferred reemployment list or mandatory reemployment list prior to using other recruitment methods.

**§ 610.3. Selective criteria.**

(a) *Generally.* Upon the request of an appointing authority, the Office of Administration may restrict certification or referral for a position based on selective criteria.

(b) *Basis for selective criteria.* Selective criteria shall be based on merit-related factors deemed necessary to the operational needs of the appointing authority and in the interest of the service to the Commonwealth. Selective criteria may include a bona fide occupational qualification deemed necessary for employment in a specific position, or other factors necessary to comply with Federal and State laws and regulations.

(c) *Request.* A request to restrict application for a position based on selective criteria shall be submitted in the manner prescribed by the Office of Administration.

**Subchapter C. VACANCY POSTINGS AND APPLICATION PROCESS**

Sec.

610.4. Vacancy postings.

610.5. Application requirements.

610.6. Evaluation of applications.

610.7. Audit of applications.

**§ 610.4. Vacancy postings.**

(a) *Content of vacancy postings.* A vacancy posting shall be published using the form prescribed by the Office of Administration and, at a minimum, must include all of the following information:

- (1) The appointing authority.
- (2) The relevant bureau, division, office or program area.
- (3) The job classification.

- (4) The position number, if assigned.
- (5) The starting salary or hourly rate of pay.
- (6) The position(s) type(s).
- (7) The location of the position(s) and a statement indicating whether the position(s) is eligible for telework.
- (8) A general description of the position(s) and work to be performed.
- (9) Contact information of the appointing authority.
- (10) Notice of the residency requirement or notice of the waiver of the residency requirement.
- (11) The minimum qualifications for the job classification.
- (12) Selective criteria required for appointment or promotion to the position(s), if applicable.
- (13) If applicable, notice that the acceptance of applications will be limited in accordance with § 610.5(a)(5).
- (14) The examination information or the internal recruitment methods, including, if applicable, the job classification(s) constituting the next lower classification and a requirement that applicants submit their most recent employee performance review.
- (15) The closing date and time of the vacancy posting.

(b) *Veterans' preference.* In addition to the requirements of subsection (a), where applicable, a vacancy posting must advertise that veterans' preference (51 Pa.C.S. Chapter 71 (relating to veterans' preference)) is the law of the Commonwealth.

(c) *Nonconformance.* When an appointing authority's vacancy posting does not conform with this section, the Office of Administration may, in its discretion, direct an appointing authority to

do all of the following:

(1) Remove the nonconforming vacancy posting.

(2) Publish a vacancy posting that conforms with this section, which shall remain open for a period equal to or greater than the period provided for by the nonconforming vacancy posting and shall state that applicants who had applied using the nonconforming vacancy posting need not apply again and will be considered for the relevant position(s).

(d) *Publication.* Vacancy postings will be available through the Office of Administration's web site.

**§ 610.5. Application requirements.**

(a) *Submission of applications.* An application shall be submitted using the form prescribed by the Office of Administration, which will be available through the Office of Administration's web site and shall contain a statement made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), verifying the truthfulness of all responses contained in the application.

(1) *Timeliness of applications.* An application shall be submitted by the date and time specified in the vacancy posting. An application submitted by 11:59 p.m. Eastern Time on the closing date indicated on the vacancy posting will be deemed submitted within the specified time limit.

(2) *Completeness of applications.* An applicant shall include on their application all information necessary for determining whether the applicant possesses the minimum qualifications for employment in the relevant job classification and, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied. An applicant's failure to comply with this provision may result in

the applicant's application being deemed incomplete.

(3) *Rejection of applications.* The Office of Administration may reject an incomplete or untimely submitted application. Whenever an application has been rejected, notice, with the reasons for the rejection, shall be given to the applicant.

(4) *Discretionary acceptance of applications.* The Office of Administration may extend the deadline for the acceptance of applications if sufficient need exists for additional applicants and if the acceptance of additional applications is uniformly applied to all applications for the position(s) filed on the same date or on an earlier date. The Office of Administration, in its discretion, may accept applications filed after the date and time specified in the vacancy posting if it determines extraordinary circumstances warrant acceptance.

(5) *Limitation on acceptance of applications.* The Office of Administration, after consultation with the appointing authority, may limit the number of applications accepted for a vacancy, provided that such limitation may not be fewer than 25 applications.

(b) *Limitation on inquiry.* Limitations on inquiry in applications shall be as follows:

(1) Except as provided in paragraphs (2) and (3), no question on an application will require an applicant to provide information concerning their age, race, color, religious creed, ancestry, national origin, gender, sexual orientation, gender identity or expression, political opinions or affiliations, union membership or affiliations, AIDS or HIV status, or disability; nor will the information be required in another manner by an official or employee of the Office of Administration or of an appointing authority in connection with the appointment or promotion to a position within the classified service, except as otherwise permitted by the act or this subpart.

(2) The Office of Administration may make inquiries of an applicant's age, race, national origin, gender or similar factors as is necessary to comply with Federal and State laws and regulations and this subpart.

(3) The Office of Administration may make inquiries of an applicant's age, race, national origin, gender or similar factors as is necessary to conduct research required to validate selection procedures or to otherwise comply with Federal and State laws and regulations on equal opportunity. Applicants shall be informed that responses to such questions are not mandatory.

**§ 610.6. Evaluation of applications.**

(a) *Evaluations.* Consistent with §§ 609.4 and 610.3 (relating to minimum qualifications; and selective criteria), the Office of Administration shall evaluate an applicant's application to determine whether the applicant possesses the minimum qualifications for employment in the relevant job classification and, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied. The Office of Administration may require an applicant to supply certificates and other appropriate documents relevant to determining the applicant's qualifications.

(b) *Basis for evaluation.* The job specification shall be the primary basis and source of authority for evaluating whether an applicant possesses the minimum qualifications for employment in the job classification to which the applicant applied. The Office of Administration may develop aids for interpreting the minimum qualifications for employment in a job classification, as set forth in the relevant job specification. These interpretive aids shall be binding for purposes of evaluating an applicant's eligibility for employment in a job classification. If applicable, the approved selective criteria, as set forth in the vacancy posting, shall be the primary basis and source of

authority for evaluating whether an applicant possess the selective criteria required for appointment or promotion to the specific position to which the applicant applied.

(c) *Unqualified applicants.* The Office of Administration is not required to score the examination of, or otherwise certify or refer, an applicant who lacks the minimum qualifications for employment in the relevant job classification or, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied.

(d) *Notice.* When the Office of Administration determines that an applicant lacks the minimum qualifications for employment in the relevant job classification or, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied, or both, the applicant shall be notified of the reasons for the determination and the ability to request reconsideration under subsection (f).

(e) *Correction of errors in determination of qualifications.* The Office of Administration, upon finding an error in the determination of an applicant's qualifications shall correct the error and report the error to the affected applicant, regardless of whether the applicant requested reconsideration under subsection (f).

(f) *Reconsideration.* An applicant may request the Office of Administration reconsider a determination that the applicant lacks the minimum qualifications or selective criteria required for employment in a job classification or position by submitting a written request for reconsideration to the Office of Administration within 5 business days of the date that the notice of ineligibility determination was sent to the applicant by the Office of Administration. The written request for reconsideration shall state the grounds for the request, specifically explaining why the ineligibility determination was incorrect based on the information provided by the applicant on their application. The Office of Administration will re-review the applicant's

application and provide the applicant with a further explanation or revised result.

(1) Appointing authorities may continue the hiring process while an applicant's request for reconsideration is pending review by the Office of Administration.

(2) If the Office of Administration determines that, due to an administrative error, an applicant was improperly determined to lack the minimum qualifications or selective criteria required for employment in a job classification or position, the Office of Administration will score the applicant's examination and, if the applicant obtains a passing examination score, certify the applicant's name to the appropriate eligible list or otherwise refer the applicant's name to the appointing authority with instructions that the appointing authority must consider the applicant for appointment or promotion to the vacancy in accordance with the act and this subpart.

(3) Before making an offer of employment to an applicant, an appointing authority must confirm with the Office of Administration that there are no pending requests for reconsideration.

#### **§ 610.7. Audit of applications.**

Information included on an applicant's application may be subject to audit by the Office of Administration, including audit after the applicant's appointment or promotion. Audits performed under this section are separate and distinct from any verification or background check performed by the Office of Administration, an appointing authority, or human resources staff supporting an appointing authority. If the Office of Administration cannot confirm information included on an applicant's application, the applicant may be deemed ineligible for appointment or promotion to the relevant position or otherwise removed from the position.

## Subchapter D. EXAMINATIONS

Sec.

610.8. Selection of examination method.

610.9. Development of examinations.

610.10. Administration of examinations.

610.11. Promotion examinations.

610.12. Prohibited conduct in examinations.

610.13. Scoring of examinations.

610.14. Examination analysis and alternatives.

### **§ 610.8. Selection of examination method.**

The appointing authority shall select the method of examination to be used for the job classification or position(s) for which the employment list or promotion list is being established.

Except as otherwise authorized in this subpart, or as authorized in writing by the Office of Administration, appointing authorities may not develop and administer their own examinations for appointment or promotion in the classified service.

### **§ 610.9. Development of examinations.**

(a) *Tests and assessments in examinations.* The Office of Administration may develop and administer written, oral and performance tests, as well as assessments of education, training and experience. The Office of Administration may further authorize medical tests, physical strength and agility tests, personality or interest inventories, biographical inventories, and other types of tests or assessments, singly or in combination, as the circumstances warrant. Additionally, for promotional examinations, the Office of Administration may authorize performance criteria, such as seniority and performance evaluations.

(b) *Basis for examinations.* Position descriptions shall be the primary basis and source of authority for the content and level of difficulty of examinations. Supplemental job information, obtained through job analysis and job specifications, may be used as a further basis for examination standards.

(c) *Limitations on examinations.* No examination will require an applicant to provide information concerning their age, race, color, religious creed, ancestry, national origin, gender, sexual orientation, gender identity or expression, political opinions or affiliations, union membership or affiliations, AIDS or HIV status, or disability; nor will the information be required in another manner by an official or employee of the Office of Administration or of an appointing authority in connection with the appointment or promotion to a position within the classified service, except as otherwise permitted by the act or this subpart.

(d) *Collaboration in examination content.* The Office of Administration may collaborate with representatives of appointing authorities, qualified testing organizations and other qualified individuals regarding the content of examinations. The interchange of information shall be made under circumstances and conditions designed to prevent premature disclosure of examination content to prospective applicants.

(e) *Cooperative testing.* The Office of Administration may authorize collaboration with another public testing or placement agency in a program of cooperative testing of applicants, provided competitive principles are observed.

(f) *Weighting of tests and evaluations.* If multiple tests or assessments constitute the entirety of an examination, the Office of Administration, after considering the relative value of the tests or assessments in measuring the relative capacity and fitness of applicants to perform the duties of the job classification or position(s) to which they applied, and after consultation with the appointing authority, will fix the relative weights of the tests or assessments. Modifications to the relative weights will be announced to all applicants.

**§ 610.10. Administration of examinations.**

(a) *Frequency of examinations.* The Office of Administration will administer examinations to establish employment and promotion lists when necessary to meet or anticipate the employment needs of appointing authorities.

(b) *Notice of examinations.* The Office of Administration shall publish notices of examinations, which announce the method of examination and, if applicable, the date, time and location that the examination will be held. Notices of examinations will be accessible through the Office of Administration's web site and shall be published for a minimum of 2 weeks. The Office of Administration may also publish notices of examinations using alternative methods of publication at its discretion.

(c) *Collaboration in administering examinations.* The Office of Administration may collaborate with representatives of appointing authorities, qualified testing organizations and other qualified individuals in administering examinations. The interchange of information shall be made under circumstances and conditions designed to prevent premature disclosure of examination content to prospective applicants.

(d) *Notice of admittance to examination.* An applicant will be notified of admittance or non-admittance to an examination.

(e) *Refusal to examine.* The Office of Administration is not required to examine an applicant who lacks the established requirements for admission to the examination, the minimum qualifications for employment in the relevant job classification or, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied. The Office of Administration may refuse to examine an applicant under any of the following circumstances:

(1) The applicant has been convicted of, or has pled guilty to, a crime, including a plea of nolo contendere, or has otherwise engaged in conduct that renders the applicant unfit or unsuitable for the position sought; provided that the requirements and restrictions contained within the Criminal History Record Information Act (18 Pa.C.S. §§ 9101–9183) are strictly followed.

(2) The applicant has been terminated from employment for incompetency or misconduct that renders the applicant unfit or unsuitable for the position sought.

(3) The applicant has made a false statement, or omitted a material fact, or engaged in, or attempted to engage in, deception or fraud in application, examination, securing eligibility, or seeking appointment or promotion.

(4) The applicant lacks professionalism, honesty, trustworthiness or dependability.

(5) The applicant does not meet qualifications required by Federal or State law or regulation.

(6) The applicant has voluntarily waived their right to apply for, or accept, employment in the classified service pursuant to a settlement agreement.

(f) *Failure to appear for in-person examination.* An applicant who fails to appear for an in-person examination due to an act or omission of the Office of Administration or another appropriate reason, as determined by the Office of Administration, shall be given a delayed in-person examination in place of the one for which the applicant failed to appear. If an applicant's failure to appear for an in-person examination was not caused by an act or omission of the Office of Administration or another appropriate reason, as determined by the Office of Administration, the applicant shall be prohibited from taking any in-person examinations for a period of 6 months from the scheduled date of the in-person examination. Repeated failures to appear for an

in-person examination on the part of the applicant may result in the applicant being prohibited from taking any in-person examinations for a period of time determined by the Office of Administration, but not to exceed 2 years.

(g) *Cancellation of examination.* Applicants taking an examination will be given equal opportunity to demonstrate relative merit and fitness. The Office of Administration may cancel, postpone or reschedule an examination, or parts of them if severable, whenever the conditions under which an examination is held have materially impaired its competitive nature or worth in assessing qualifications. The Office of Administration may also cancel, postpone or reschedule an examination whenever it finds holding the examination impracticable or unnecessary. The reasons for canceling, postponing or rescheduling an examination shall be made part of the examination record. If parts of a multipart examination are canceled, the Office of Administration shall reassign the weights, in an equitable manner, to the remaining part or parts.

(h) *Retaking examination.* The Office of Administration may designate in a notice of examination the time frame within which an applicant may retake an examination. Applicants who attempt to retake an examination outside of the designated time frame may have their examination rejected and may be prohibited from taking further examinations for a period of time to be determined by the Office of Administration.

**§ 610.11. Promotion examinations.**

(a) Except as indicated in this section, a promotion examination will be open to probationary and regular employees who occupy a position with a lower maximum salary than the position relevant to the examination, possess the minimum qualifications for employment in the relevant job classification and, where applicable, possess the selective criteria required for promotion to

the relevant position. As approved by the Office of Administration, a promotion examination may be limited to employees occupying positions in specified job classifications.

(b) Upon the request of an appointing authority, the Office of Administration may, in its discretion, limit entrance to a promotion examination to regular employees who occupy a position with a lower maximum salary than the position relevant to the examination, possess the minimum qualifications for employment in the relevant job classification and, where applicable, possess the selective criteria required for promotion to the relevant position.

(c) The Office of Administration may, after consultation with the appropriate appointing authorities, establish the length of service required of an employee in the qualifying job classification or classifications for eligibility to participate in a promotion examination.

**§ 610.12. Prohibited conduct in examinations.**

(a) *Cheating or seeking undue advantage.* An individual may not impersonate an applicant or have another individual impersonate an applicant in connection with an examination; or use or attempt to use unauthorized aids or assistance, including copying or attempting to copy from or helping or attempting to help another individual in any part of an examination; or otherwise seek to attain undue advantage for themselves or others in connection with the examination.

(b) *Improper use of examination materials.* An individual may not copy, record or transcribe an examination question or answer; or remove from the examination room a question sheet, answer sheet or booklet, scrap papers, notes or other papers, or any materials related to the content of the examination. An individual will be notified of these requirements prior to taking an examination, and no examiner, proctor, monitor, or other person charged with the supervision of an individual or group of individuals taking an examination will have authority to waive it.

(c) *Violations.* The Office of Administration may disqualify from examination or otherwise refuse to certify an applicant who violates this section.

**§ 610.13. Scoring of examinations.**

(a) *Qualifying raw scores.* The Office of Administration shall set qualifying raw scores for each examination. When there is a multipart examination, the Office of Administration may require applicants to attain a qualifying raw score on each part of the examination. In determining qualifying raw scores, the Office of Administration may consider both the number and quality of prospective eligibles needed to serve the best interests of the classified service, as well as the validity and reliability of the examination.

(b) *Failure of part of examination.* An applicant who fails to earn a qualifying raw score on any part of an examination may be disqualified from participating in any other parts of the examination, and if so disqualified, shall be deemed to have failed the entire examination.

(c) *Use of examination scores.* Final examination scores may be used to rank applicants or to categorize or group similarly qualified applicants.

(1) *Ranking of applicants.* When examination scores are used to rank applicants, the final earned score of each applicant who attained a qualifying raw score on the examination shall be calculated as follows:

(i) Examination scores shall be calculated in whole numbers.

(ii) The minimum qualifying raw score shall be assigned an examination score of 60.

(iii) The estimated highest qualifying raw score, the score which the best qualified individual would be reasonably expected to attain, shall be assigned an examination score of 100.

(iv) The intermediate qualifying raw scores shall be assigned examination scores between 60 and 100 based on their relationship to the qualifying raw score, the estimated highest qualifying raw score, and the reliability and accuracy of the examination procedures. Scores above the estimated highest qualifying raw score shall exceed an examination score of 100 and shall be assigned an examination score based on their relationship to the qualifying raw score and the estimated highest qualifying raw score.

(v) Ties in examination scores may not be broken.

(2) *Categorization or grouping of applicants.* When test scores are used to categorize or group similarly qualified applicants, all applicants in a category shall be assigned the same final examination score.

(d) *Veterans' preference.* An applicant's final examination score will be calculated prior to the application of veterans' preference in accordance with the act, 51 Pa.C.S. Chapter 71 (relating to veterans' preference), and this subpart.

(e) *Correction of errors in scoring.* The Office of Administration, upon finding an error in the calculation of an applicant's examination score shall correct the error and report the error to the affected applicant, regardless of whether the applicant requested a reconsideration under subsection (f).

(f) *Reconsideration.* An applicant may request the Office of Administration reconsider the applicant's examination score by submitting a written request for reconsideration to the Office of Administration within 5 business days of the date that the notice of examination score was sent to the applicant by the Office of Administration. The written request for reconsideration shall state the grounds for the request, specifically explaining why the applicant's examination score is

incorrect based on the examination answers provided by the applicant. The Office of Administration will re-review the applicant's examination and provide the applicant with a further explanation or revised result.

(1) Appointing authorities may continue the hiring process while an applicant's request for reconsideration is pending review by the Office of Administration.

(2) If the Office of Administration determines that, due to an administrative error, an applicant received an incorrect examination score, the Office of Administration will revise the applicant's examination score and instruct the appointing authority to consider the applicant for appointment or promotion to the vacancy in accordance with the act and this subpart.

(3) Before making an offer of employment to an applicant, an appointing authority must confirm with the Office of Administration that there are no pending requests for reconsideration.

(g) *Refusal to score examination.* The Office of Administration is not required to score the examination of an applicant who lacks the established requirements for admission to the examination, the minimum qualifications for employment in the relevant job classification or, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied. The Office of Administration may refuse to score the examination of an applicant under any of the following circumstances:

(1) The applicant has been convicted of, or has pled guilty to, a crime, including a plea of nolo contendere, or has otherwise engaged in conduct that renders the applicant unfit or unsuitable for the position sought; provided that the requirements and restrictions

contained within the Criminal History Record Information Act (18 Pa.C.S. §§ 9101–9183) are strictly followed.

- (2) The applicant has been terminated from employment for incompetency or misconduct that renders the applicant unfit or unsuitable for the position sought.
- (3) The applicant has made a false statement, or omitted a material fact, or engaged in, or attempted to engage in, deception or fraud in application, examination, securing eligibility, or seeking appointment or promotion.
- (4) The applicant lacks professionalism, honesty, trustworthiness and dependability.
- (5) The applicant does not meet qualifications required by Federal or State law or regulation.
- (6) The applicant has voluntarily waived their right to apply for, or accept, employment in the classified service pursuant to a settlement agreement.

**§ 610.14. Examination analysis and alternatives.**

- (a) *Analysis.* The Office of Administration will initiate analysis of examinations as necessary to ensure that examinations do not discriminate on the basis of nonmerit factors.
- (b) *Invalidation and substitution.* The Office of Administration, after investigation, may invalidate all or part of the examination results and, in its discretion, substitute an alternative method of examination. The Office of Administration will notify applicants of the action and the reasons, therefore.

**Subchapter E. ESTABLISHMENT OF ELIGIBLE LISTS**

Sec.

- 610.15. Creation of eligible lists.
- 610.16. Duration of eligible lists.
- 610.17. Amendment of eligible lists.
- 610.18. Replacement and integration of eligible lists.

610.19. Cancellation of eligible lists.

**§ 610.15. Creation of eligible lists.**

Upon the scoring of an examination, the Office of Administration will create an eligible list, which shall contain the names of the applicants who qualified for and successfully passed the examination. Eligible lists shall be arranged in order of final examination scores and must include applicable veterans' preference points in accordance with the act, 51 Pa.C.S. Chapter 71 (relating to veterans' preference), and this subpart.

**§ 610.16. Duration of eligible lists.**

The duration of an eligible list will be fixed by the Office of Administration based on the needs and interest of the Commonwealth.

**§ 610.17. Amendment of eligible lists.**

(a) *Amendments permitted.* The Office of Administration may amend an eligible list to correct a clerical error. Such clerical errors include, but are not limited to, corrections to an eligible's score; a change to an applicant's veteran status; or the addition or removal of an applicant's name.

(b) *Effect of amendment.* An amendment to an eligible list may not disadvantage an employee who has started employment after being lawfully appointed or promoted to the relevant position based on a valid certification previously issued.

**§ 610.18. Replacement and integration of eligible lists.**

(a) *Replacement and integration permitted.* A newly established eligible list may replace an earlier eligible list appropriate for the same job classification. The Office of Administration may integrate an eligible list with an equivalent list established later based on final examination scores and veterans' preference points, when applicable.

(b) *Notice.* When an examination is announced that may result in the replacement of an eligible list, the eligibles whose names remain on the list being replaced shall be notified of their opportunity to participate in the examination.

**§ 610.19. Cancellation of eligible lists.**

(a) *Cancellation permitted.* The Office of Administration may cancel an eligible list where it determines that illegality or fraud occurred in connection with the eligible list.

(b) *Public hearing.* Prior to cancelling an eligible list, the Office of Administration shall hold a public hearing, which shall be conducted in accordance with Chapter 615 (relating to practice and proceedings before the Office of Administration) of this subpart.

(c) *Notice.* When an eligible list is cancelled, the eligibles whose names remain on the list being cancelled shall be notified of the cancellation.

**Subchapter F. CERTIFICATION OF ELIGIBLES**

Sec.

610.20. Request for certification.

610.21. Content of certification.

610.22. Duration of certification.

610.23. Refusal to certify; removal from certification.

**§ 610.20. Request for certification.**

(a) *Generally.* Upon the request of an appointing authority, the Office of Administration will issue to the appointing authority as many certifications as necessary to satisfy the employment needs of the appointing authority.

(b) *Types of certified eligible lists.* The Office of Administration shall certify as many types of eligible lists as requested by the appointing authority, including, but not limited to, lists containing only the names of those eligibles currently employed by the appointing authority; lists containing only the names of those eligibles currently employed by the Commonwealth; lists

containing only the names of those eligibles possessing selective criteria imposed in accordance with the act and this subpart; and lists containing only the names of those eligibles who are veterans.

**§ 610.21. Content of certification.**

(a) *Generally.* A certified eligible list will contain the names of those eligibles who received a passing final examination score and will indicate each eligible's final examination score.

(b) *Veterans' preference.* In accordance with § 608.4(d) (relating to veterans' preference), certified eligible lists will indicate an eligible's veteran status, as well as any additional examination points afforded to an eligible in accordance with 51 Pa.C.S. Chapter 71 (relating to veterans' preference).

(c) *Age preference.* In accordance with § 608.5(c) (relating to age preference), certified eligible lists issued to the Department of Aging will indicate each eligible's age preference status.

**§ 610.22. Duration of certification.**

A certified eligible list shall be valid for 90 business days after the date of certification.

**§ 610.23. Refusal to certify; removal from certification.**

(a) *Generally.* The Office of Administration is not required to certify, and may otherwise remove from a certified eligible list, an eligible who lacks the minimum qualifications for employment in the relevant job classification or, where applicable, the selective criteria required for appointment or promotion to the specific position to which the eligible applied. The Office of Administration may refuse to certify, or may otherwise remove from a certified eligible list, for a period of time as determined by the Office of Administration, an eligible who has had any of the following occur:

- (1) The eligible has been convicted of, or has pled guilty to, a crime, including a plea of nolo contendere, or has otherwise engaged in conduct that renders the eligible unfit or unsuitable for the position sought; provided that the requirements and restrictions contained within the Criminal History Record Information Act (18 Pa.C.S. §§ 9101–9183) are strictly followed.
- (2) The eligible has been terminated from employment for incompetency or misconduct that renders the eligible unfit or unsuitable for the position sought.
- (3) The eligible has made a false statement, or omitted a material fact, or engaged in, or attempted to engage in, deception or fraud in application, examination, securing eligibility, or seeking appointment or promotion.
- (4) The eligible lacks professionalism, honesty, trustworthiness and dependability.
- (5) The eligible does not meet qualifications required by Federal or State law or regulation.
- (6) The eligible has been properly rejected three times by an appointing authority in favor of others on the same eligible list.
- (7) The applicant has voluntarily waived their right to apply for, or accept, employment in the classified service pursuant to a settlement agreement.

**Subchapter G. APPOINTMENT AND PROMOTION OF ELIGIBLES FROM  
CERTIFIED ELIGIBLE LISTS**

Sec.

- 610.24. Rule of three and alternate rule.
- 610.25. Assessment of eligibles.
- 610.26. Removal of eligible from eligible list.
- 610.27. Prohibition against securing withdrawal from competition.

**§ 610.24. Rule of three and alternate rule.**

(a) *Rule of three.* Unless an appointing authority elects to use an alternate rule, the rule of three shall apply when selecting an eligible for appointment or promotion from a certified eligible list.

(b) *Alternate rule.* An appointing authority may elect to use an alternate rule when selecting an eligible for appointment or promotion from a certified eligible list, in accordance with the act and this subpart.

(1) An appointing authority shall notify the Office of Administration of its election to use an alternate rule when requesting to post a vacancy.

(2) An appointing authority electing an alternate rule may not use an alternate rule unless notification has been received by the Office of Administration, as required in paragraph (1), and the Office of Administration has acknowledged the election of an alternate rule, in writing.

(3) The Office of Administration reserves the right to reject an appointing authority's election of an alternate rule if it appears the use of the rule is designed to circumvent merit principles as set forth in the act and this subpart.

(c) *Multiple vacancies.* During the process of making multiple appointments or promotions from a single certified eligible list, the appointing authority shall follow the same procedure, as set forth in subsections (a) and (b), for each appointment or promotion made.

**§ 610.25. Assessment of eligibles.**

An appointing authority may conduct an interview or otherwise assess relative suitability for appointment or promotion of a certified eligible, but the assessment must be based on merit-related criteria and be conducted in accordance with the act and this subpart.

**§ 610.26. Removal of eligible from eligible list.**

(a) *Request for removal of eligible from eligible list.* A request for removal of an eligible's name from an established or certified eligible list is subject to the following:

- (1) A request for removal of an eligible's name from an established or certified eligible list shall be promptly raised by the appointing authority.
- (2) An appointing authority requesting removal of an eligible's name from an established or certified eligible list shall submit a written request for removal to the Office of Administration, which shall include the basis for the request and all supporting documents that were relied upon by the appointing authority to determine that the eligible's name should be removed.
- (3) A request for removal of an eligible's name from an established or certified eligible list must be based upon merit-related criteria.
- (4) On the same date an appointing authority submits to the Office of Administration a request for removal of an eligible's name from an established or certified eligible list, the appointing authority shall send a copy of the request for removal, including all supporting documents provided to the Office of Administration, to the eligible. The copy of the request for removal sent to the eligible must include specific instructions on how to respond to the request for removal, as set forth in subsection (b).

(b) *Eligible's opportunity to respond.* An eligible may, within 10 calendar days from the mailing date of the appointing authority's request for removal of the eligible's name from an established or certified eligible list, submit a written response to the Office of Administration, including any supporting documents. The eligible shall send a copy of the response and

supporting documents to the appointing authority on the same date the response is submitted to the Office of Administration.

(c) *Removal.* The Office of Administration will grant an appointing authority's request to remove an eligible's name from an established or certified eligible list only where removal is warranted by merit-related criteria and is consistent with the merit principles set forth in the act and this subpart. If a request for removal of an eligible's name from an established or certified eligible list is granted by the Office of Administration, the eligible's name will be removed from the appropriate list or lists for a period of time as determined by the Office of Administration, and the appointing authority will not be required to consider the eligible for appointment or promotion.

**§ 610.27. Prohibition against securing withdrawal from competition.**

An eligible may not influence another eligible to withdraw from competition for a position in the classified service, nor may a waiver of another eligible's rights or availability be solicited for the purpose of either improving or impairing an eligible's prospects for appointment or promotion.

The Office of Administration may take appropriate action in accordance with the act whenever it finds that an eligible has violated this section.

**Subchapter H. APPOINTMENT AND PROMOTION THROUGH INTERNAL RECRUITMENT METHODS**

Sec.

610.28. Referral of applicants.

610.29. Reassignment.

610.30. Transfer.

610.31. Voluntary demotion.

610.32. Reinstatement.

610.33. Promotion.

610.34. Assessment of referred applicants.

610.35. Prohibition against securing withdrawal from competition.

**§ 610.28. Referral of applicants.**

(a) *Generally.* Upon the closing of a vacancy posting limited to only internal recruitment methods, the Office of Administration will refer to the appointing authority the names of those applicants available for appointment or promotion by the applicable internal recruitment methods.

(b) *Refusal to refer.* The Office of Administration is not required to refer an applicant who lacks the minimum qualifications for employment in the relevant job classification or, where applicable, the selective criteria required for appointment or promotion to the specific position to which the applicant applied. The Office of Administration may refuse to refer an applicant under any of the following circumstances:

(1) The applicant has been convicted of, or has pled guilty to, a crime, including a plea of nolo contendere, or has otherwise engaged in conduct that renders the eligible unfit or unsuitable for the position sought; provided that the requirements and restrictions contained within the Criminal History Record Information Act (18 Pa.C.S. §§ 9101–9183) are strictly followed.

(2) The applicant has been terminated from employment for incompetency or misconduct that renders the eligible unfit or unsuitable for the position sought.

(3) The applicant has made a false statement, or omitted a material fact, or engaged in, or attempted to engage in, deception or fraud in application, examination, securing eligibility, or seeking appointment or promotion.

(4) The applicant lacks professionalism, honesty, trustworthiness or dependability.

(5) The applicant does not meet qualifications required by Federal or State law or regulation.

(6) The applicant has voluntarily waived their right to apply for, or accept, employment in the classified service pursuant to a settlement agreement.

**§ 610.29. Reassignment.**

(a) *Generally.* An employee in the classified service may seek appointment to a vacant position through reassignment, provided the position is in the same or similar job classification to which the employee currently holds.

(b) *Similar job classification.* To determine whether job classifications are similar, the Office of Administration will consider whether the job classifications are in the same occupational field and whether movement from one job classification to the other job classification represents a logical career movement for the employee. If either factor is met, the job classifications shall be considered similar for purposes of paragraph (a).

(c) *Additional criteria.* Subject to the prior approval of the Office of Administration, an appointing authority may limit application for a reassignment based on additional, merit-related criteria.

**§ 610.30. Transfer.**

(a) *Generally.* An employee in the classified service may seek appointment to a vacant position through a transfer, provided the position is in the same job classification that the employee currently holds.

(b) *Additional criteria.* Subject to the prior approval of the Office of Administration, an appointing authority may limit application for a transfer based on additional, merit-related criteria.

**§ 610.31. Voluntary demotion.**

An employee in the classified service may seek appointment to a vacant position through demotion, provided the position is in a job classification that the employee previously held regular status or which the employee is otherwise qualified to hold.

**§ 610.32. Reinstatement.**

An applicant who previously held regular status employment in the classified service and who resigned or otherwise voluntarily separated from that employment may seek appointment to a vacant position through reinstatement, provided the position is in the same job classification from which the applicant resigned.

**§ 610.33. Promotion.**

(a) *Method of promotion.* A vacancy may be filled by promotion in the following ways:

- (1) By promotion of a probationary or regular employee from an appropriate employment list.
- (2) By promotion of a probationary or regular employee from a promotion list.
- (3) By promotion of a regular employee without examination, based upon meritorious service and seniority.

(b) *Promotion without examination.* Promotion without examination may be accomplished under the following circumstances, provided that the promotion does not circumvent merit principles as set forth in the act and this subpart:

- (1) *Trainee job classifications.* A trainee who has successfully completed the prescribed training period may be promoted, without further examination, to the higher-level job classification.

(2) *Intern job classifications.* An intern who has successfully completed the duration of the internship may be promoted without further examination to the higher-level job classification, provided the intern possesses the minimum qualifications for employment in the higher-level job classification.

(3) *Competitive promotion without examination.* An appointing authority seeking to fill a vacancy through the competitive promotion without examination process shall make the promotion decision based upon an objective review of each referred applicant's meritorious service and seniority, provided the applicants have completed the probationary period in the next lower job classification and meet the minimum requirements for the higher-level job classification.

(4) *Classification review.* When a classification review reveals that a position should be classified to a higher level, the incumbent of the position will be promoted without examination to the higher-level job classification, provided the incumbent possesses the minimum qualifications required for employment in the higher-level job classification.

(5) *Unskilled position.* When an unskilled position in the unclassified service exists immediately below a vacancy in a position in the classified service, the incumbent of the unskilled position shall be promoted into the classified service position, if all of the following occur:

(i) The promotion is into a classified service position immediately above the employee's position.

(ii) The promotion is based on meritorious service and seniority.

(iii) The employee meets all the established requirements for the higher-level position.

(iv) The employee satisfactorily completes a 6-month probationary period in the classified service position.

(c) *Meritorious service and seniority.* For purposes of subsection (b), the following definitions apply:

(1) *Meritorious service.* Meritorious service shall mean the absence of any discipline above the level of written reprimand during the 12 months preceding the closing date on the vacancy posting and an overall rating of satisfactory or higher on the employee's last performance evaluation. Appointing authorities shall not change the definition of meritorious service set forth in this paragraph and must consider all applicants who have a minimum overall rating of satisfactory on the employee's last performance evaluation and who otherwise meet all other requirements for promotion to the relevant position.

(2) *Seniority.* Unless otherwise approved by the Office of Administration, seniority shall mean a minimum of 12 months of employment in the next lower job classification, as determined by the appointing authority using objective standards, by the closing date of the vacancy posting. Subject to approval by the Office of Administration, seniority may also mean a demonstration of a logical occupational, functional or career development relationship to the posted position and a job classification for which the employee holds, or has held, regular status; or a clear linkage between the required knowledge, skills and abilities of the posted position and a job classification for which the employee holds, or has held, regular status.

(d) *Eligibility for promotion.* To be eligible for a promotion, regardless of promotion method, an employee must have received an overall rating of satisfactory or higher on the employee's last performance evaluation and cannot have received any discipline above the level of written

reprimand during the 12 months preceding the closing date on the vacancy posting. Appointing authorities shall not change the requirements set forth in this subsection and must consider all applicants who have a minimum overall rating of satisfactory on the employee's last performance evaluation and who otherwise meet all other requirements for promotion to the relevant position.

(e) *Collective bargaining agreements.* Notwithstanding the provisions of this section, when a collective bargaining agreement covering a job classification in the classified service sets forth promotion procedures, the terms of the agreement as to the promotion procedures shall be controlling, provided such terms are not otherwise contrary to the act or this subpart.

**§ 610.34. Assessment of referred applicants.**

An appointing authority may conduct an interview or otherwise assess relative suitability for appointment or promotion of a referred applicant, but the assessment must be based on merit-related criteria and be conducted in accordance with the act and this subpart.

**§ 610.35. Prohibition against securing withdrawal from competition.**

An applicant may not influence another applicant to withdraw from competition for a position in the classified service, nor may a waiver of another applicant's rights or availability be solicited for the purpose of either improving or impairing an applicant's prospects for appointment or promotion. The Office of Administration may take appropriate action in accordance with the act whenever it finds that an applicant has violated this section.

## Subchapter I. EMERGENCY APPOINTMENTS

Sec.

610.36. Emergency appointments.

### § 610.36. Emergency appointments.

(a) *Generally.* Notwithstanding the provisions of this chapter related to examinations and the certification and appointment of eligibles, to prevent serious impairment of the public business during an emergency, and when time does not permit securing authorization from the Office of Administration for the appointment of a certified eligible, an appointing authority may appoint a qualified applicant during the emergency for an initial period not exceeding 30 calendar days.

(b) *Status of emergency employees.* An emergency employee shall hold the same status as a probationary employee for the duration of the emergency appointment. Conversion of an emergency appointment to a permanent appointment shall require regular certification and appointment procedures.

(c) *Report to Office of Administration.* An appointing authority shall report to the Office of Administration an emergency appointment within 5 business days of the emergency appointment and shall include an explanation of the emergency circumstances necessitating the emergency appointment. If the Office of Administration determines that the emergency appointment does not conform with the act or this section, the Office of Administration may take appropriate corrective action, including requiring the appointing authority to separate the emergency employee.

(d) *Extension.* The Office of Administration, upon the request and submission of justification by an appointing authority, may permit the appointing authority to extend the emergency appointment for up to an additional 30 calendar days.

## CHAPTER 611. EMPLOYEES IN THE CLASSIFIED SERVICE

### Subchap.

- A. PROBATIONARY PERIODS AFTER APPOINTMENT OR PROMOTION
- B. EMPLOYEE PERFORMANCE EVALUATIONS
- C. MOVEMENT OF EMPLOYEES BY APPOINTING AUTHORITIES
- D. RECLASSIFICATIONS BY THE OFFICE OF ADMINISTRATION
- E. COMPENSATION

### Subchapter A. PROBATIONARY PERIODS AFTER APPOINTMENT OR PROMOTION

#### Sec.

- 611.1. Probationary periods required.
- 611.2. Duration and extension of probationary periods.
- 611.3. Probationary period following reassignment or transfer.
- 611.4. Probationary period following demotion.
- 611.5. Probationary period following reinstatement.
- 611.6. Probationary period following promotion.
- 611.7. Probationary period of trainees.
- 611.8. Probationary period of interns.
- 611.9. Credit towards probationary period.
- 611.10. Effect of leave of absence on probationary period.
- 611.11. Effect of a leave of absence for military duty on probationary period.
- 611.12. Conferment of regular status and removal of probationary employees.

#### **§ 611.1. Probationary periods required.**

Except as otherwise provided by the act and this subpart, an employee in the classified service shall serve a probationary period after an appointment or promotion.

#### **§ 611.2. Duration and extension of probationary periods.**

(a) *Duration of probationary period.* The length of the probationary period required for appointments and promotions for a full-time position is a minimum of 6 months, defined as 180 calendar days, and will be determined by the Office of Administration for each job classification.

The probationary period for part-time positions shall be equal to the number of hours in a probationary period for a full-time employee in the same job classification.

(b) *Extension of probationary period.* The probationary period, except for a trainee job

classification, may be extended up to a maximum of 18 months (defined as 545 calendar days—365 calendar days plus 6 months at 30 days per month), at the discretion of the appointing authority. If the appointing authority extends an employee's probationary period, it must notify the employee in writing at least 1 workday prior to the effective date of the extension.

**§ 611.3. Probationary period following reassignment or transfer.**

(a) *Regular employees.* An employee who has achieved regular status and who is appointed to a position through reassignment or transfer shall retain regular status.

(b) *Probationary employees.* The unexpired portion of the probationary period of an employee who never achieved regular status and who is appointed to a position through a reassignment or transfer shall continue to be served in the position, unless the employee accepted the appointment after being notified in writing that the appointing authority having jurisdiction over the position requires a full probationary period in the position as a condition of appointment.

**§ 611.4. Probationary period following demotion.**

(a) *Regular employee.* An employee who has achieved regular status and who is demoted shall retain regular status.

(b) *Probationary employee.* The unexpired portion of the probationary period of an employee who never achieved regular status and who is demoted shall continue to be served in the position, unless the employee accepted the demotion after being notified in writing that the appointing authority having jurisdiction over the position requires a full probationary period in the position as a condition of appointment.

**§ 611.5. Probationary period following reinstatement.**

A former employee who is reinstated shall serve the probationary period prescribed for the job classification to which reinstated.

**§ 611.6. Probationary period following promotion.**

(a) *Generally.* A regular status employee who is promoted shall serve the duration of the probationary period that is specified for the job classification to which promoted, subject to the following conditions:

(1) During the first 3 months of the probationary period, the employee has the option to return to the regular status position held immediately prior to the employee's promotion.

(2) At any time after the first 3 months of the probationary period, an employee in probationary status may return to the previous regular status position or job classification held immediately prior to the employee's promotion, with written consent of the appointing authorities.

(3) If the performance of the employee is found to be unsatisfactory by the appointing authority, the employee shall be returned to the previous regular status position or job classification held immediately prior to the employee's promotion.

(b) *Status after return.* Employees returned under subsection (a) shall be assigned regular status in the job classification to which the employee is returned, provided the employee achieved regular status in that classification.

(c) *Employees without regular status.* A promoted employee who has never held regular status in the classified service does not have a right to return to a probationary status position previously held.

**§ 611.7. Probationary period of trainees.**

(a) *Status as trainee.* A trainee shall maintain the status of a probationary employee while employed in the trainee job classification.

(b) *Duration of probationary period.* The probationary period for the trainee job classification

and working level job classification will be combined and may be set by the Office of Administration at a minimum of 6 months, defined as 180 calendar days, and a maximum of 24 months, defined as 730 calendar days, to coincide with the length of the designated training period.

(c) *Extension of probationary period.* The probationary period of a trainee may be extended up to a maximum of 24 months, defined as 730 calendar days, at the discretion of the appointing authority. If the appointing authority extends an employee's probationary period, it must notify the employee in writing at least 1 workday prior to the effective date of the extension.

(d) *Promotion to working level job classification.* A trainee shall be promoted to the working level job classification, with regular status, if the trainee successfully completes the designated probationary period. Notice of successful completion of the probationary period shall be given in accordance with § 611.12 (relating to conferment of regular status and removal of probationary employees).

(e) *Removal of trainee.* An appointing authority must immediately remove, or, if appropriate, return a trainee who fails to successfully complete the designated probationary period in accordance with § 611.12(d).

#### **§ 611.8. Probationary period of interns.**

(a) *Status as intern.* An intern shall maintain the status of a probationary employee while employed in the intern job classification.

(b) *Duration of probationary period.* The probationary period for an intern job classification shall coincide with the duration of the internship.

(1) *Minimum duration.* The minimum duration of a probationary period for an intern job classification shall be 6 months, defined as 180 calendar days or 975 hours if the

internship is completed over a noncontiguous period.

(2) *Maximum duration.* The maximum duration of a probationary period for an intern job classification shall be 18 months, defined as 545 calendar days (365 calendar days plus 6 months at 30 days per month) or 2,925 hours if the internship is completed over a noncontiguous period.

(c) *Promotion after internship.* An intern who has successfully completed the duration of the internship may be promoted in the manner set forth in § 610.33(b)(2) (relating to promotion).

Notice of successful completion of the probationary period shall be given in accordance with § 611.12(a) (relating to conferment of regular status and removal of probationary employees).

(d) *Removal of intern.* An appointing authority must immediately remove, or, if appropriate, return an intern who fails to successfully complete the internship in accordance with § 611.12(d).

#### **§ 611.9. Credit towards probationary period.**

(a) *Temporary assignment of higher-level duties.* A probationary employee who is temporarily assigned the duties of a higher-level position shall have the period during which they are performing the higher-level duties credited toward the lower-level probationary period.

(b) *Service in same level position.* If an appointing authority reassigns a probationary employee to another position in the same or a similar job classification within the appointing authority, the employee shall be credited with time served in the previous position toward the completion of the probationary period required for the present position.

#### **§ 611.10. Effect of leave of absence on probationary period.**

(a) *Generally.* A leave of absence shall not count toward the completion of a probationary employee's probationary period. Upon return from a leave of absence, a probationary employee shall complete the unserved portion of the probationary period.

(b) *Extended leave.* When a leave of absence exceeds 30 consecutive workdays, the appointing authority may require that a new, full probationary period be served by the returning probationary employee, provided that the total duration of the probationary period may not exceed 18 months.

**§ 611.11. Effect of a leave of absence for military duty on probationary period.**

A leave of absence for military duty shall not count toward the completion of a probationary employee's probationary period. Upon return from a leave of absence for military duty, a probationary employee shall complete the unserved portion of the probationary period.

**§ 611.12. Conferment of regular status and removal of probationary employees.**

(a) *Evaluation of performance.* Prior to the expiration of an employee's probationary period, the appointing authority shall evaluate the employee's performance and provide the employee with the results of the evaluation.

(b) *Form of evaluation.* Performance evaluations of probationary employees shall be made using the same form developed in accordance with § 611.13(c) (relating to performance evaluations generally).

(c) *Conferment of regular status.* If an employee's overall performance during the probationary period has been rated satisfactory or higher, the appointing authority shall confer regular status upon the employee at the expiration of the probationary period.

(d) *Removal of probationary employee.*

(1) If at any time during the probationary period the appointing authority determines that an employee is failing to perform satisfactorily, the appointing authority may promptly remove or, if appropriate, return, the employee in accordance with the act and this subchapter.

(2) If at the completion of the probationary period the appointing authority determines that an employee failed to perform satisfactorily, the appointing authority will immediately remove or, if appropriate, return, the employee in accordance with the act and this subchapter.

## **Subchapter B. EMPLOYEE PERFORMANCE EVALUATIONS**

Sec.

611.13. Performance evaluations generally.

611.14. Completion of performance evaluations.

611.15. Retention of performance evaluations.

611.16. Review of performance evaluations.

611.17. Use of performance evaluations.

### **§ 611.13. Performance evaluations generally.**

(a) *Generally.* Subject to the review and approval of the Office of Administration, appointing authorities shall establish and maintain a job-related system of performance evaluations for employees in the classified service.

(b) *Basis of performance evaluations.* Performance evaluations must be based upon job-related factors appropriate for determining the manner in which the employee performs the duties and carries out the responsibilities of the position occupied.

(c) *Forms and procedures.* Performance evaluation forms and procedures shall be reviewed and approved by the Office of Administration prior to utilization.

### **§ 611.14. Completion of performance evaluations.**

Performance evaluations of regular employees shall be completed at least once each year, unless a different schedule is approved by the Office of Administration.

### **§ 611.15. Retention of performance evaluations.**

(a) *Generally.* Appointing authorities shall retain copies of a regular employee's performance evaluation for a period of 3 years.

(b) *Review by Office of Administration.* Upon request by the Office of Administration, performance evaluations shall promptly be made available by an appointing authority to the Office of Administration.

**§ 611.16. Review of performance evaluations.**

An appointing authority shall provide the employee with the results of the performance evaluation as soon as practicable after the evaluation is completed. The employee will be given an opportunity to review the performance evaluation with the rater and the reviewing officer. The appointing authority shall inform the employee of the standards used in determining the evaluation.

**§ 611.17. Use of performance evaluations.**

Performance evaluations may be utilized for purposes of determining eligibility for promotion, to assist in establishing priority for promotion, or for determining order of furlough as provided in this subpart.

**Subchapter C. MOVEMENT OF EMPLOYEES BY APPOINTING AUTHORITIES**

Sec.

- 611.18. Reassignment by appointing authority.
- 611.19. Transfer by appointing authority.
- 611.20. Involuntary demotions.
- 611.21. Status after involuntary movement.

**§ 611.18. Reassignment by appointing authority.**

- (a) *Generally.* An appointing authority may reassign an employee from one position to another in the same job classification or in a similar job classification for which the employee qualifies.
- (b) *Similar job classification.* To determine whether job classifications are similar, the Office of Administration will consider whether the job classifications are in the same occupational field

and whether movement from one job classification to the other job classification represents a logical career movement for the employee. If either factor is met, the job classifications shall be considered similar for purposes of paragraph (a).

(c) *Disapproval.* The Office of Administration may disapprove a reassignment that is not in compliance with the act and this subpart, or that otherwise violates merit principles.

**§ 611.19. Transfer by appointing authority.**

(a) *Generally.* Upon agreement between appointing authorities, an appointing authority may transfer an employee from one position to another position in the same job classification within a different appointing authority.

(b) *Initiation of transfer.* A transfer shall be initiated by the appointing authority having jurisdiction over the position to which the transfer is sought and must be approved by the Office of Administration.

(c) *Disapproval.* The Office of Administration may disapprove a transfer that is not in compliance with the act and this subpart, or that otherwise violates merit principles.

**§ 611.20. Involuntary demotions.**

An appointing authority may demote an employee who does not satisfactorily perform the duties of the position that they currently hold to a position in any job classification that the employee previously had the status of a regular employee or to any position for which the employee is qualified.

**§ 611.21. Status after movement of employees by appointing authorities.**

The corresponding provisions of §§ 611.1—611.12 shall apply to appointments made in accordance with this subchapter.

## **Subchapter D. RECLASSIFICATIONS BY THE OFFICE OF ADMINISTRATION**

Sec.

611.22. Reclassifications.

611.23. Effect of reclassification on status.

### **§ 611.22. Reclassifications.**

(a) *Reclassifications required.* When an employee's job duties change or the Board changes a job classification and a reallocation of the position becomes necessary, the employee shall be reclassified to the new job classification if the employee meets the established requirements. If the reclassification is to a lower-level job classification, it will not be construed as a demotion and the reclassified employee shall be credited with seniority acquired in the higher-level job classification.

(b) *Request for classification review.* When an appointing authority believes that a reclassification is necessary, the appointing authority shall submit a written request for a classification review to the Office of Administration, which shall include justification as to why reclassification of the position is necessary.

(c) *Approval.* The Office of Administration will approve requests for reclassification in accordance with the act and this subchapter.

(d) *Denial.* The Office of Administration may deny an appointing authority's request for reclassification if it appears the request is designed to circumvent merit principles as set forth in the act and this subpart, or is otherwise unnecessary.

### **§ 611.23. Effect of reclassification on status.**

An employee reclassified laterally or to a lower-level job classification under this subchapter shall retain their current status.

## **Subchapter E. COMPENSATION**

Sec.

611.24. Effect of change in compensation schedules.

### **§ 611.24. Effect of change in compensation schedules.**

Revisions to the established schedule of compensation for a job classification, with no significant change in job specifications as determined by the Office of Administration, will have no effect upon the status and seniority of employees. Changes in compensation may not be construed as promotions or demotions.

## **CHAPTER 612. SEPARATION OF EMPLOYEES FROM THE CLASSIFIED SERVICE**

**Subchap.**

**A. LEAVES OF ABSENCE**

**B. FURLOUGH**

**C. REMOVAL AND SUSPENSION**

**D. RESIGNATION**

**E. SENIORITY**

### **Subchapter A. LEAVES OF ABSENCE**

Sec.

612.1. Leaves of absence generally.

612.2. Leaves of absence for military duty.

612.3. Vacancies due to leaves of absence for military duty.

612.4. Leave of absence for Senior Management Service employment.

#### **§ 612.1. Leaves of absence generally.**

(a) *Request.* An employee seeking a leave of absence shall submit a written request for a leave of absence to the appointing authority. The written request shall state the date on which the leave will start, the date on which the leave will end and the reason for the request.

(b) *Approval.* A leave of absence may be granted at the discretion of the appointing authority in accordance with the act and this subpart.

(c) *Duration.* Approved leaves of absence shall be for a definite period, up to a 2-year increment of time.

(d) *Extension.* Upon the written request of the employee, a leave of absence may be extended at the discretion of the appointing authority in 2-year increments and for a maximum continuous duration of 12 years. If after a leave of absence consisting of 12 continuous years the employee does not return to a position in accordance with subsection (e), the employee shall be deemed to have resigned from their position on the date the approved leave of absence terminates.

(e) *Right of return.* Upon the expiration of an employee's approved leave of absence, or after an employee requests to return from an approved leave of absence in writing to the appointing authority, the employee shall have the right to return to employment in the classified service with the same appointing authority, subject to the following:

(1) An employee shall have the right to return to a vacant position, which the appointing authority is filling, in the same job classification from which the leave of absence was approved and shall retain the same status as they held prior to taking the leave of absence.

(2) If there are no vacant positions in the same job classification from which the employee took a leave of absence, the employee shall have the right of return to any of the following:

(i) A vacant position, which the appointing authority is filling, in a job classification previously held and shall retain the same status as they held prior to taking the leave of absence.

(ii) A vacant position, which the appointing authority is filling, in a job classification with the same maximum hourly salary and shall retain the same

status as they held prior to taking the leave of absence, provided the employee meets the minimum qualifications for the job classification.

(iii) A vacant position, which the appointing authority is filling, in a lower-level job classification and shall retain the same status as they held prior to taking the leave of absence, provided the employee meets the minimum qualifications for the job classification.

(3) If there is no vacancy to which the employee on leave can be returned, or if the employee returned to a lower-level job classification in accordance with subparagraph (2) (relating to leaves of absence generally), the employee's name shall be placed on a preferred reemployment list, for a period of 1 year, for employment in the job classification from which the leave of absence was approved.

(f) *Preferred reemployment lists.* Certifications from a preferred reemployment list shall take precedence over all other eligible lists and referrals from internal recruitment methods.

(g) *Scope.* This section shall not apply to leaves of absence for military service and leaves of absence for employment in the Senior Management Service.

**§ 612.2. Leaves of absence for military duty.**

(a) *Generally.* An appointing authority shall grant a leave of absence to an employee for military duty.

(b) *Request.* An employee seeking a leave of absence for military duty shall submit a written request for a leave of absence for military duty to the appointing authority as soon as possible prior to the military duty commencing or as soon as possible after the military duty begins. An employee shall include with their written request all documents necessary to establish that the employee is, or will be, on military duty during the relevant period of time.

(c) *Duration.* The duration of the leave of absence shall coincide with the duration of the employee's military duty and any delayed return to work as prescribed by the Uniformed Services Employment and Reemployment Rights Act, as amended (38 U.S.C.A. §§ 4301—4335).

(d) *Right of return.* An employee on a leave of absence for military duty shall have a guaranteed right of return in accordance with the act, this subpart, and the Uniformed Services Employment and Reemployment Rights Act, as amended (38 U.S.C.A. §§ 4301—4335).

**§ 612.3. Vacancies due to leaves of absence for military duty.**

(a) *Vacancies filled.* When an employee in the classified service is granted a leave of absence for military duty, the position vacated shall be left vacant or otherwise filled by a substitute employee, provided the position vacated is a permanent position.

(b) *Return of incumbent.* Upon return of the incumbent under § 612.2(d) (relating to leaves of absence for military duty), the substitute employee shall be required to vacate the position.

(1) Substitute employees who held regular status or probationary status in a job classification immediately prior to accepting the substitute appointment or substitute promotion shall have the right to return to their previously held position and status.

(2) A substitute employee who did not hold regular status or probationary status in a job classification immediately prior to accepting the substitute appointment shall be separated.

(c) *Permanent appointment or promotion.* A substitute appointment or substitute promotion shall be converted to a permanent appointment or promotion when the incumbent who was granted the leave of absence for military duty fails to return to the position within the applicable

time frame prescribed by the Uniformed Services Employment and Reemployment Rights Act, as amended (38 U.S.C.A. §§ 4301—4335).

(d) *Rights of substitute employee.* A regular or probationary employee who accepts a substitute appointment or substitute promotion shall maintain the same rights and privileges to which entitled if the employee had continued to serve in the previous position with the same status. The substitute appointment or substitute promotion will not prejudice the employee's rights to promotion, transfer, reemployment or retention in service.

**§ 612.4. Leave of absence for Senior Management Service employment.**

(a) *Generally.* An employee who accepts a Senior Management Service position shall be granted a leave of absence upon starting employment in the Senior Management Service position.

(b) *Duration.* The duration of leave of absence shall coincide with the duration of the employee's employment in the Senior Management Service.

(c) *Removal without return.* If an employee, who has been granted a leave of absence under paragraph (a), engages in conduct that would constitute just cause for removal of an employee in the classified service, the appointing authority may remove the employee from the Senior Management Service position without the need to return the employee to a classified service position, and such action shall be deemed a removal from the classified service under the act and this part.

## Subchapter B. FURLOUGH

Sec.

612.5. Furlough.

### § 612.5. Furlough.

(a) *Reasons.* Furloughs shall occur only because of a lack of funds or a lack of work.

(b) *Furlough units.* Furloughs will be conducted within approved furlough units. For purposes of this section, a furlough unit shall be defined as all employees in the job classification within an affected institution, division, office, bureau or a combination of the institutions, divisions, offices, or bureaus within an appointing authority. Each appointing authority will submit recommended furlough units to the Office of Administration. Once approved by the Office of Administration, the furlough units will be used for subsequent furloughs. Changes to approved furlough units shall be submitted to and approved by the Office of Administration prior to use in subsequent furloughs.

(c) *Provisional employees, temporary employees, and emergency employees.* An appointing authority shall remove all emergency employees, temporary employees and provisional employees within the designated furlough unit before furloughing a probationary employee or regular employee in the designated furlough unit.

(d) *Order of furlough.* Furloughs shall occur in the following order:

(1) *Probationary employees.* An appointing authority will not furlough a regular employee while a probationary employee is employed in the designated furlough unit. An appointing authority shall furlough probationary employees in the inverse order of seniority. Seniority for this purpose shall be the length of continuous service in the classified service if there has been no break in service.

(2) *Regular employees.* When it is necessary to furlough regular employees in a designated furlough unit, the last annual or probationary performance evaluations, as applicable, of the regular employees in the furlough shall be converted to categories or relative ranks. The regular employees will be placed into quarters, and those in the lowest quarter will be furloughed or returned under subsection (e), in the inverse order of seniority. Seniority for this purpose shall be the length of continuous service in the classified service if there has been no break in service.

(e) *Rights before furlough.* Upon notification of furlough, and until the effective date of it, a regular employee to be furloughed shall have a right of return to vacant positions in the appointing authority in any job classification and status previously held, or to any job classification and status in the same or lower job classification, if the employee meets the minimum qualifications and provided the appointing authority is filling the vacancy. A probationary employee will be returned to the job classification previously held if the probationary status resulted from promotion.

(f) *Mandatory reemployment after furlough.* A furloughed employee who is unable to exercise their right of return under subsection (e) will be given a mandatory 1-year preference for reemployment in the same job classification and appointing authority from which they were furloughed. The preference does not apply to vacancies that an employee on leave of absence has priority of return, or to a filled position which has been reclassified to a higher-level job classification after the effective date of furlough.

(g) *Optional reemployment after furlough.* A furloughed employee who is unable to exercise their right of return under subsection (e) will, for 1 year, be placed on optional reemployment

lists for the job classification from which furloughed and for equal and lower-level job classifications for which they are qualified, for certification to all appointing authorities.

(h) *Reemployment certification.* The following requirements apply to certifications of reemployment lists of furloughed employees:

(1) A certification from a mandatory reemployment list shall preclude issuance of a certification otherwise applicable to available vacancies except for a certification from a preferred reemployment list, which shall take precedence over all other eligible lists, including a mandatory reemployment list. Certification from optional reemployment lists shall be considered equally with all other employment or promotion certifications issued for available vacancies.

(2) Furloughed employees shall be certified from mandatory reemployment lists according to their stated availabilities. The appointing authority will give reemployment preference to those on mandatory reemployment lists with higher overall performance evaluations. In cases of identical performance evaluations, furloughed employees with greater continuous classified service seniority will have reemployment preference.

(3) Furloughed employees shall be certified from optional reemployment lists according to their stated availabilities. The appointing authority may select any furloughed employee from the optional reemployment list, in accordance with merit principles.

(i) *Refusal of reemployment from mandatory reemployment list.* A furloughed employee who refuses reemployment from a mandatory reemployment list in a county other than the county from which they were furloughed, shall retain mandatory reemployment rights solely to the county from which they were furloughed. Furloughed employees who refuse mandatory

reemployment in the county from which they were furloughed shall lose all mandatory and optional reemployment rights and consideration.

(j) *Refusal of reemployment from optional reemployment list.* A furloughed employee who refuses appointment from an optional reemployment list in the same job title from which they were furloughed or in a job title with the same pay grade as the job title from which they were furloughed shall forfeit all optional reemployment preference, but shall retain mandatory preference for reemployment. A furloughed employee who refuses appointment from an optional reemployment list in a job title with a pay grade lower than the job title from which they were furloughed shall retain reemployment preference for job titles with pay grades higher than the job title to which reemployment is offered and equal to the job title from which they were furloughed. Reemployment preference is forfeited for all job titles with pay grades equal to and lower than the job title to which reemployment is offered. If preferences subsequently are not, or cannot be, exercised, the furloughed employee shall be considered as having voluntarily resigned as of the furlough effective date.

(k) *Collective bargaining agreements.* If there is a collective bargaining agreement covering the employees to be furloughed, the terms of the agreement as to furlough and reemployment procedures shall be controlling.

### **Subchapter C. REMOVAL AND SUSPENSION**

Sec.

612.6. Removal

612.7. Suspension.

#### **§ 612.6. Removal.**

Just cause for removal of a regular employee must be based on at least one merit-related reason.

**§ 612.7. Suspension.**

(a) *Generally.* An appointing authority may suspend an employee for good cause, which shall be based on at least one merit-related reason.

(b) *Suspension pending investigation.* An appointing authority may, for the purpose of ascertaining an employee's fitness for continued employment, suspend an employee pending the outcome of an internal or external investigation.

(1) When an investigation has not revealed cause for disciplinary action, the suspension shall be retracted and expunged from all records, and the employee shall receive back pay for the full period of suspension.

(2) When an investigation has revealed cause for disciplinary action, the suspension shall be converted, either in whole or in part, to a disciplinary action.

(c) *Duration of suspension.*

(1) A suspension, including during a pending internal investigation, may not exceed 60 working days in 1 calendar year.

(2) A suspension pending investigation by external agencies may be maintained up to 30 working days after conclusion of the external investigation.

(3) A suspension under 71 Pa.C.S. § 2705(f) (relating to political activity) may not exceed 120 working days.

## Subchapter D. RESIGNATION

Sec.

612.8. Notice of resignation.

612.9. Effective date of resignation.

612.10. Acceptance or rejection of resignation.

### **§ 612.8. Notice of resignation.**

Notice of resignation shall consist of a voluntary termination of employment evidenced by an affirmative statement, either written or oral, of the employee's intent to resign.

### **§ 612.9. Effective date of resignation.**

(a) When an employee gives notice of the effective date of resignation, the employee shall cease working for the appointing authority on the specified date.

(b) When an employee does not specify an effective date of resignation, the resignation shall take effect immediately.

(c) A resignation submitted during or at the termination of a leave of absence shall be effective on the date submitted.

### **§ 612.10. Acceptance or rejection of resignation.**

(a) *Response to notice of resignation.* An appointing authority shall respond to an employee's notice of resignation, in writing, within 15 calendar days after the appointing authority's receipt of the notice of resignation. The appointing authority's response shall state whether the employee's resignation is accepted or rejected by the appointing authority. An appointing authority may not reject a resignation unless the employee is being investigated or removal action is pending.

(b) *Removal after notice of resignation.* The acceptance of a resignation will not bar an appointing authority from thereafter removing an employee for causes that occur or become known during the period between the acceptance and the effective date of the resignation.

(c) *Withdrawal of resignation.* An employee's resignation may not be withdrawn without the written consent of the appointing authority once the resignation has been accepted by the appointing authority. A resignation that has not been accepted by the appointing authority may be withdrawn by the employee at any time prior to acceptance or the effective date.

(d) *Rescission of acceptance after resignation.* Upon notice to the former employee, an appointing authority may rescind its acceptance of a resignation after the effective date for just cause and convert the resignation to a removal.

### **Subchapter E. SENIORITY**

Sec.

612.11. Break in service.

#### **§ 612.11. Break in service.**

(a) *Generally.* For purposes of seniority, the following shall constitute a break in service:

- (1) Removal for just cause.
- (2) Resignation.
- (3) Retirement.
- (4) Failure to accept an offer to return after furlough under 71 Pa.C.S. § 2602(b)(1) (relating to furlough) and this subpart.
- (5) Failure to accept an offer to return after a leave of absence under 71 Pa.C.S. § 2608(b) (relating to leave of absence) and this subpart.
- (6) Expiration of mandatory, preferred or optional reemployment rights.
- (7) Failure to report after a leave of absence.

(b) *Effect on seniority.* If a break in service occurs, the employee shall lose accrued seniority.

(c) *Furlough and leave.* Periods of furlough and leaves of absence shall be deemed continuous employment for seniority purposes, except that during the period of furlough or leave of absence, the employee shall not accrue credit towards seniority.

(d) *Involuntary demotion.* A demotion under § 610.31 (relating to voluntary demotion) shall terminate seniority in the job classification from which demoted.

## **CHAPTER 613. ENFORCEMENT OF ACT; PROHIBITIONS AND PENALTIES**

### **Subchap.**

#### **A. OFFICE OF ADMINISTRATION REVIEW OF LEGALITY OF EMPLOYMENT ACTIONS**

#### **B. PROHIBITION ON POLITICAL ACTIVITY**

#### **C. INVESTIGATIONS; NOTICE OF VIOLATIONS AND PENALTIES**

### **Subchapter A. OFFICE OF ADMINISTRATION REVIEW OF LEGALITY OF EMPLOYMENT ACTIONS**

Sec.

613.1. Reporting.

613.2. Review of personnel actions.

#### **§ 613.1. Reporting.**

Each appointing authority shall promptly report to the Office of Administration an appointment, promotion, or change in position or job classification of an employee in the classified service in its employ; or any other additional information related to an employee in the classified service in its employ requested by the Office of Administration.

#### **§ 613.2. Review of personnel actions.**

Whenever the Office of Administration determines that a personnel action is not in accordance with the act and this subpart, the Office of Administration will notify the appointing authority in writing, including the reasons for the determination and the required corrective action.

## **Subchapter B. PROHIBITION ON POLITICAL ACTIVITY**

Sec.

613.3. Scope of prohibition.

### **§ 613.3. Scope of prohibition.**

(a) The provisions of 71 Pa.C.S. § 2705 (relating to political activity) shall not apply to employees who are on furlough, who are on a leave of absence, or who are on a leave covered under the State Employees' Retirement Code in 71 Pa.C.S. § 5302(b) (relating to credited State service).

(1) An employee who is elected to and assumes public office while on a leave of absence or a leave covered under the State Employees' Retirement Code in 71 Pa.C.S. § 5302(b) shall, upon returning to employment in the classified service, resign from the elective public office and otherwise comply with the provisions of 71 Pa.C.S. § 2705.

(2) An employee who is elected to and assumes public office while on furlough may serve out the remaining portion of the present term of office, provided the duties of the elective public office do not present a conflict of interest with the duties of the employee's position in the classified service, and the employee does not otherwise engage in activity prohibited by 71 Pa.C.S. § 2705. The employee may not seek and accept appointment, nomination, and election for a new term in office.

(b) An employee who is elected to public office prior to appointment to a position in the classified service may serve out the remaining portion of the present term of office, provided the duties of the elective public office do not present a conflict of interest with the duties of the employee's position in the classified service, and the employee does not otherwise engage in

activity prohibited by 71 Pa.C.S. § 2705. The employee may not seek and accept appointment, nomination or election for a new term in office.

### **Subchapter C. INVESTIGATIONS; NOTICE OF VIOLATIONS AND PENALTIES**

Sec.

613.4. Procedure.

#### **§ 613.4. Procedure.**

(a) *Investigations.* The Office of Administration will investigate allegations of violations of the act or this subpart by an employee or applicant.

(b) *Request for Investigation.* An individual suspecting that an individual has violated the act or this subpart may file a written request for investigation with the Office of Administration, which shall contain sufficient details of the alleged violation so as to enable proper investigation by the Office of Administration.

(c) *Hearing.* When appropriate, the Office of Administration may convene a hearing under 71 Pa.C.S. § 2202(a)(10) (relating to duties of Office of Administration) to determine whether an employee violated the act or this subpart and the appropriate penalty or remedy. The hearings shall be conducted in accordance with Chapter 615 (relating to practice and proceedings before the Office of Administration) of this subpart.

(d) *Notice.* Whenever the Office of Administration determines that an employee has violated the act or this subpart, the Office of Administration will give written notice to the appropriate appointing authority of the determination, including appropriate corrective actions. Notice that an employee intentionally falsified information, failed to disclose a material fact or otherwise concealed information to obtain appointment or promotion shall also include a reference to 71 Pa.C.S. § 2702(b) (relating to false statements made under oath and concealing information).

(e) *Penalties.* Unless otherwise required by the act or this subpart, penalties for violation of the act or this subpart shall be within the discretion of the Office of Administration.

(1) *Intentional violation.* Except as provided in paragraphs (2) and (3), an employee who intentionally violates Chapter 27 of the act shall be immediately removed from employment in the classified service.

(2) *Political activity.* An employee who violates 71 Pa.C.S. § 2705 (relating to political activity) or § 613.3 (relating to scope of prohibition) shall be removed from employment in the classified service, provided the Office of Administration may impose a penalty of suspension without pay for not more than 120 working days if the Office of Administration finds that the violation does not warrant removal.

(3) *Concealment.* An employee who intentionally falsified information, failed to disclose a material fact, or otherwise concealed information to obtain appointment or promotion shall be removed from all eligible lists for a period of time to be determined by the Office of Administration and, if appointed or promoted, be summarily removed.

(f) *Removal.* When the Office of Administration orders the removal of an employee due to the employee's violation of the act or this subpart, the appointing authority shall remove the employee immediately.

(g) *Ineligibility after removal.* When an employee has been found to have intentionally violated Chapter 27 of the act and as a result has been removed from employment in the classified service, the employee shall be ineligible for reappointment to any position in the classified service for a period of time determined by the Office of Administration. In setting the period of ineligibility, the Office of Administration may, in its discretion, determine that permanent ineligibility is appropriate.

## CHAPTER 614. PERSONNEL ACTIONS

Sec.

614.1. Personnel actions.

614.2. Notice of personnel actions.

614.3. Signatory authority.

### § 614.1. Personnel actions.

(a) When used in the act or this subpart, the term personnel action shall be limited to the following:

- (1) Appointment.
- (2) Promotion.
- (3) Removal, including the removal of a probationary employee before the expiration of the probationary period.
- (4) Suspension.
- (5) Acceptance of resignation.
- (6) Demotion.
- (7) Furlough.
- (8) Transfer.
- (9) Reassignment.
- (10) Leave of absence.
- (11) Extension or reduction of probationary period.
- (12) Compensation changes, except salary increments, general pay increases, or special pay for such things as overtime or out-of-class work.
- (13) Performance evaluation.
- (14) Reclassification.
- (15) Return to a position or job classification held prior to promotion.

**§ 614.2. Notice of personnel actions.**

(a) *Required.* An appointing authority shall provide written notice of a personnel action to the affected employee.

(b) *Content.* A written notice of a removal, furlough, involuntary demotion or suspension issued to a regular employee shall include a clear statement of the reason(s) for the personnel action, sufficient to apprise the employee of the grounds upon which the personnel action is based. A written notice of a removal, furlough, involuntary demotion or suspension shall provide information on the employee's right to appeal the personnel action to the State Civil Service Commission.

(c) *Effective date of personnel action.* Unless otherwise required by the Office of Administration or stated in the notice by the appointing authority, the personnel action will take effect immediately upon the provision of notice to the employee by the appointing authority.

(d) *Simultaneous copy.* When the appointing authority notifies an employee of a furlough or a suspension, it shall simultaneously submit a copy of the notice to the Office of Administration. Copies of other notices of personnel actions shall be provided to the Office of Administration upon request.

(e) *Mandatory requirements.* Except as provided in subsection (f), the requirements in this section are mandatory. Failure to adhere to the notice requirements set forth in this section may nullify the personnel action.

(f) *Acceptance of resignation.* The requirements of this section do not apply to an appointing authority's acceptance of an employee's resignation, which are governed by §§ 612.8—612.10 (relating to notice of resignation; effective date of resignation; and acceptance or rejection of resignation).

**§ 614.3. Signatory authority.**

(a) *Generally.* A notice of personnel action shall be signed by the head of the appointing authority or an authorized designee.

(b) *Authorized designee.* Unless otherwise provided for, in writing, by the head of an appointing authority, an authorized designee of the head of an appointing authority includes a deputy secretary, a bureau director, an office director, a superintendent, a deputy superintendent or an equivalent position employed by the appointing authority; a human resources director or an equivalent position supporting the appointing authority; or an individual who is delegated signatory authority on behalf of the head of the appointing authority in the manner prescribed by the Office of Administration. For purposes of performance evaluations, an employee's immediate supervisor shall be deemed the authorized designee of the head of the appointing authority without the need for delegation of signatory authority.

(c) *No further delegation.* An authorized designee of the head of an appointing authority may not further delegate signatory authority.

(d) *Rebuttable presumption.* A notice of personnel action bearing the signature of the head of the appointing authority, or an authorized designee, shall create a rebuttable presumption that the head of the appointing authority or the authorized designee signed the notice and had the proper authority to issue the notice.

**CHAPTER 615. PRACTICE AND PROCEEDINGS BEFORE THE OFFICE OF  
ADMINISTRATION**

**Subchap.**

**A. GENERAL PROVISIONS**

**B. HEARINGS UNDER SECTION 2202(a)(10) OF THE ACT**

**C. LIST CANCELLATION HEARINGS**

**Subchapter A. GENERAL PROVISIONS**

**Sec.**

615.1. Applicability of General Rules of Administrative Practice and Procedure.

615.2. Public access.

615.3. Presiding officer.

615.4. Computation of time.

615.5. Filings with Docket Clerk.

**§ 615.1. Applicability of General Rules of Administrative Practice and Procedure.**

This chapter is intended to supersede 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The General Rules of Administrative Practice and Procedure are not applicable to activities of and proceedings before the Office of Administration.

**§ 615.2. Public access.**

Hearings scheduled by the Office of Administration under its authority under the act shall be open to the public. Notices of public hearing shall be published by the Office of Administration on its publicly accessible web site.

**§ 615.3. Presiding officer.**

(a) Hearings scheduled by the Office of Administration under its authority under the act shall be conducted by a presiding officer designated, in writing, by the Secretary of Administration.

(b) Subsection (a) supersedes 1 Pa. Code § 35.185 (relating to designation of presiding officers).

**§ 615.4. Computation of time.**

(a) When any period of time is referred to in this chapter, such period in all cases shall be so computed as to exclude the first and include the last day of such period. Whenever the last day of

any such period shall fall on Saturday, Sunday or a legal holiday under the laws of this Commonwealth or the United States, such day shall be omitted from the computation.

(b) Subsection (a) supersedes 1 Pa. Code § 31.12 (relating to computation of time).

**§ 615.5. Filings with Docket Clerk.**

(a) *Generally.* When a document is required to be filed with the Docket Clerk, the filing shall occur within the applicable time limits, if any, by first class mail or electronic mail. The Office of Administration shall indicate the mailing address and electronic mail address of the Docket Clerk on its publicly accessible web site.

(b) *Mail.* When a document is filed with the Docket Clerk by first class mail, the date of mailing, as evidenced by the United States Postal Service postmark on the envelope containing the filing, a United States Postal Service Form 3817 (Certificate of Mailing), or another similar United States Postal Service form from which the date of deposit with the United States Postal Service can be determined, shall be deemed the date of filing.

(c) *Electronic mail.* When a document is filed with the Docket Clerk by electronic mail, the date of receipt recorded by the Docket Clerk's electronic mail system shall be deemed the date of filing. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Supersession.* Subsections (a)—(c) supersedes 1 Pa. Code §§ 31.5(a), 31.11 and 33.34 (relating to communications and filings generally; timely filing required; and date of service).

**Subchapter B. HEARINGS UNDER SECTION 2202(a)(10) OF THE ACT**

Sec.

615.6. Order to show cause.

615.7. Answer to order to show cause.

615.8. Representation.

- 615.9. Consolidation of proceedings.
- 615.10. Severance of proceedings.
- 615.11. Notice of hearing.
- 615.12. Continuances.
- 615.13. Subpoenas.
- 615.14. Authority of presiding officer.
- 615.15. Form of hearings.
- 615.16. Failure to attend hearing.
- 615.17. Additional hearings and evidence.
- 615.18. Record of proceedings.
- 615.19. Post-hearing brief.
- 615.20. Proposed decision and order.
- 615.21. Exceptions.
- 615.22. Brief opposing exceptions.
- 615.23. Further response or pleading.
- 615.24. Final decision and order.

**§ 615.6. Order to show cause.**

(a) *Generally.* The Office of Administration shall commence a proceeding under 71 Pa.C.S. § 2202(a)(10) (relating to duties of Office of Administration) through the filing of a verified order to show cause with the Docket Clerk. The individual against whom the order to show cause is filed shall be deemed the respondent.

(b) *Content.* An order to show cause must set forth with specificity the grounds for the proceeding, including a concise statement of the relevant factual allegations, matters of law and a request for relief.

(c) *Entry of Appearance.* An order to show cause filed under this section shall be accompanied by an entry of appearance for the attorneys and legal interns representing the Office of Administration in the proceeding.

(d) *Service.* On the date of filing, the Office of Administration shall simultaneously serve a copy of the order to show cause on the respondent by first class mail. The date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating

to filings with Docket Clerk). The Office of Administration shall include with its order to show cause a certificate of service indicating proper service on the respondent.

(e) *Supersession.* Subsections (a), (b) and (d) supersede 1 Pa. Code §§ 33.31, 35.14 and 35.121 (relating to service by agency; orders to show cause; and initiation of hearings). Subsection (c) supersedes 1 Pa. Code § 31.24(b) (relating to notice of appearance).

**§ 615.7. Answer to order to show cause.**

(a) *Generally.* A respondent shall file with the Docket Clerk an answer to the order to show cause within 20 days of the date of service indicated on the certificate of service accompanying the order to show cause.

(b) *Content.* An answer shall specifically admit or deny the allegations presented in the order to show cause, set forth the facts upon which the respondent relies, and state concisely the relevant matters of law. General denials of the allegations contained in the order to show cause will not be considered as complying with this section and may be deemed a basis for entry of a proposed decision and order without a hearing, unless otherwise required by the act, on the ground that the response has raised no issues requiring a hearing or further proceedings.

(c) *Service.* On the date of filing, a respondent shall simultaneously serve a copy of the answer on the Office of Administration's legal counsel by first class mail at the mailing address indicated in the order to show cause, unless the Office of Administration agrees to accept service by electronic mail. A respondent shall include with their answer a certificate of service indicating proper service on the Office of Administration.

(1) When an answer is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When an answer is served by electronic mail, the date of receipt recorded by the Office of Administration's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Failure to file answer.* A respondent failing to file an answer with the Docket Clerk within the time allowed shall be deemed in default, and relevant facts stated in the order to show cause may be deemed admitted and provide a basis for entry of a proposed decision and order without a hearing, unless otherwise required by the act, on the ground that the response has raised no issues requiring a hearing or further proceedings.

(e) *Supersession.* Subsections (a), (b) and (d) supersede 1 Pa. Code § 35.37 (relating to answers to orders to show cause) and subsection (c) supersedes 1 Pa. Code § 33.32 (relating to service by a participant).

#### **§ 615.8. Representation.**

(a) A respondent appearing before the Office of Administration may do so on their own behalf or may be represented by an attorney licensed to practice law in this Commonwealth or a legal intern certified by the Supreme Court of Pennsylvania. An appointing authority shall be represented by an attorney licensed to practice law in this Commonwealth or a legal intern certified by the Supreme Court of Pennsylvania. Attorneys and legal interns shall file with the Docket Clerk an entry of appearance with the Office of Administration.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.21, 31.22, 31.23 and 31.24.

**§ 615.9. Consolidation of proceedings.**

(a) The Office of Administration may consolidate two or more proceedings at its discretion where the proceedings involve a common question of law or fact, provided that consolidation does not prejudice any party thereto.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.45 and 35.122 (relating to consolidation; and consolidation of formal proceedings).

**§ 615.10. Severance of proceedings.**

The Office of Administration may sever two or more proceedings at its discretion where the proceedings lack a common question of law or fact, provided that severance does not prejudice any party thereto.

**§ 615.11. Notice of hearing.**

(a) The Office of Administration shall provide the parties advance notice of a scheduled hearing. The notice will contain a statement of the matters to be addressed at the hearing, as well as specific instructions regarding the date, time, and place of hearing.

(b) Subsection (a) supersedes 1 Pa. Code § 35.121 (relating to initiation of hearings).

**§ 615.12. Continuances.**

The presiding officer may, upon a showing of good cause, grant a request for a continuance of a scheduled hearing. The requests shall be submitted as far in advance of the scheduled hearing date as possible, be made in writing, and must state the specific reason(s) for the continuance request. A copy of a request for a continuance shall be simultaneously served on the non-requesting party.

**§ 615.13. Subpoenas.**

*(a) Procedure for requesting subpoena.*

(1) A subpoena for the attendance of witnesses or for the production of documents will be issued only upon written request to the presiding officer, with a copy to the non-requesting party. Notwithstanding the forgoing, the presiding officer may, by their own motion, issue a subpoena for the attendance of witnesses or the production of documents.

(2) A written request shall specify the relevance of the testimony or documentary evidence sought. For documentary evidence, the request must specify, to the extent possible, the documents desired and the facts to be proved thereby.

(3) A subpoena for new or additional witnesses will not be issued after a hearing has been started and continued unless orally requested on the record at the hearing and approved by the presiding officer; except that subpoenas issued prior to the start and continuance of the hearing may be reissued upon written request.

(4) Failure to adhere to the requirements of this subsection may result in the refusal to issue the requested subpoena.

*(b) Service of subpoena.*

(1) A subpoena for the attendance of a witness must be personally served on the witness at least 48 hours prior to the hearing, unless the witness agrees to waive the 48-hour requirement.

(2) A subpoena for the production of documents may be served personally, by mail, or by electronic means upon the individual in possession of the documents, the legal counsel for the entity or individual in possession of the documents, or the designated custodian of

the documents. A subpoena for the production of documents shall be served no later than 10 business days prior to hearing.

(3) Failure to adhere to the requirements of this subsection may result in a ruling by the presiding officer denying the enforceability of the subpoena.

(c) *Enforcement of subpoena.*

(1) If the subject of a subpoena fails or refuses to comply with the terms of the subpoena, the subpoenaing party may file with the Docket Clerk a request for enforcement.

(2) If the presiding officer determines that the testimony or documentary evidence sought through the subpoena is probative of a material fact or issue relevant to the proceeding, the Secretary of Administration, or their designee, will petition a court of record for enforcement of the subpoena in accordance with 71 Pa.C.S. § 2202(c) (relating to duties of Office of Administration).

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code §§ 35.142 and 35.145—35.152 (relating to subpoenas; and depositions).

**§ 615.14. Authority of presiding officer.**

(a) A presiding officer has the discretionary authority to do the following:

- (1) Determine the order of procedure.
- (2) Regulate the conduct of hearings, including the scheduling, recessing, reconvening and adjournment, and to do acts and take measures necessary or proper for the efficient conduct of hearings.
- (3) Administer oaths and affirmations.
- (4) Receive evidence.
- (5) Rule upon offers of proof and evidentiary objections.

- (6) Hold appropriate conferences before or during hearings and order the parties to submit memoranda in advance of the conference.
- (7) Dispose of procedural requests, including discovery or similar matters.
- (8) Specify the manner in which pleadings are to be submitted to the presiding officer, including the format and contents of these documents.
- (9) Require that the parties, prior to the hearing, submit witness lists or lists of documents, or both, to be presented at the hearing.
- (10) Take other actions as necessary and appropriate to discharge the presiding officer's vested duties, consistent with statutory and regulatory authority.

(b) Subsection (a) supersedes 1 Pa. Code Chapter 35, Subchapter E (relating to presiding officers).

**§ 615.15. Form of hearings.**

(a) A hearing before the Office of Administration shall be formal but need not adhere to the technical rules of evidence or procedure. In cases involving issues of fact, oral testimony shall be under oath or affirmation.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.123 and 35.189 (relating to conduct of hearings; and manner of conduct of hearings).

**§ 615.16. Failure to attend hearing.**

When a properly notified party fails to appear at a hearing, the hearing may be held without the participation of the non-appearing party and, thereafter, the presiding officer may take appropriate action consistent with this subchapter.

**§ 615.17. Additional hearings and evidence.**

(a) After the conclusion of a hearing, but prior to the issuance of a final disposition, the presiding officer may, upon their own motion or upon request of a party, allow one or more additional hearings or the submission of additional relevant evidence.

(b) Subsection (a) supersedes 1 Pa. Code § 35.128 (relating to additional evidence).

**§ 615.18. Record of proceedings.**

(a) A complete stenographic record of the proceedings shall be made. A party shall make arrangements to purchase copies of the record directly with the reporting service. The Office of Administration's copy of the record may be reviewed at the Office of Administration's office in Harrisburg. Arrangements to review the record may be made by contacting the Docket Clerk.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.131 and 35.133 (relating to recording of proceedings; and copies of transcripts).

**§ 615.19. Post-hearing brief.**

(a) *Generally.* At the close of the proceedings, or as directed by the presiding officer, each party will be given the opportunity to file a legal brief in support of their position.

(b) *Briefing schedule.* The presiding officer will set forth a briefing schedule and the order in which the briefs shall be filed. The briefs shall be filed with the Docket Clerk.

(c) *Content of brief.* A post-hearing brief does not need to conform to a specific format but must include:

(1) A statement of the facts supporting the party's position, with citation to the relevant exhibits and pages of the transcript.

(2) A discussion of the arguments supporting the party's position, including citation to relevant statutes, regulations, and case law.

(d) *Service.* On the date of filing, a party shall simultaneously serve a copy of the brief on the opposing party by first class mail, unless the parties mutually agree to accept service by electronic mail. A party shall include with their brief a certificate of service indicating proper service on the opposing party.

(1) When a brief is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When a brief is served by electronic mail, the date of receipt recorded by the opposing party's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code Chapter 35, Subchapter F (relating to briefs).

#### **§ 615.20. Proposed decision and order.**

(a) *Generally.* Upon the closing of the record, the presiding officer shall issue a proposed decision and order, based on the established record, which will be provided to the parties and filed with the Docket Clerk.

(b) *Content.* The proposed decision and order shall contain a statement of (1) findings and conclusions, as well as the reasons or basis therefor, resolving all the material issues of credibility, fact and law presented on the record, and (2) an appropriate order, sanction, relief or denial.

(c) *Finality.* A proposed decision and order shall be deemed a final order of the Office of Administration upon the expiration of 20-calendar days from the date of issuance, unless exceptions are timely and properly filed in accordance with § 615.21 (relating to exceptions).

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code §§ 31.13 (relating to issuance of agency orders), 35.201—35.207 (relating to proposed reports generally) and 35.226 (relating to final orders).

### **§ 615.21. Exceptions.**

(a) *Generally.* A party aggrieved by the proposed decision and order may, within 20 days after the issuance of the proposed decision and order, appeal to the Secretary of Administration, by filing with the Docket Clerk exceptions to the proposed decision and order, or part of it, in the form of a brief on exceptions.

(b) *Content.*

(1) A brief on exceptions shall, at a minimum:

(i) State the specific issues of procedure, fact or law, or other portion of the proposed decision and order to which each exception is taken.

(ii) Identify the page or part of the proposed decision and order to which each exception is taken.

(iii) Designate by page citation or exhibit number the portions of the record relied upon for each exception.

(2) A brief on exceptions may include specific findings and conclusions proposed in lieu of those to which exception is taken and any proposed additional findings and conclusions.

(c) *Service.* On the date of filing, a party shall simultaneously serve a copy of the brief on exceptions on the opposing party by first class mail, unless the parties mutually agree to accept service by electronic mail. A party shall include with their brief on exceptions a certificate of service indicating proper service on the opposing party.

(1) When a brief on exceptions is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When a brief on exceptions is served by electronic mail, the date of receipt recorded by the opposing party's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Waiver.* A party's failure to file with the Docket Clerk a brief on exceptions within the time allowed under this section shall constitute a waiver of all objections to the proposed decision and order. Objections to any part of a proposed decision and order that are not included in a party's brief on exceptions shall be deemed waived.

(e) *Supersession.* Subsection (a) supersedes 1 Pa. Code §§ 35.190(a) and 35.211 (relating to appeals to agency head from rulings of presiding officers; and procedure to except to proposed report), subsections (b)—(d) supersede 1 Pa. Code §§ 35.211 and 35.212(a)(1) (relating to procedure to except to proposed report; and content and form of briefs on exceptions) and subsection (d) supersedes 1 Pa. Code 35.213 (relating to effect of failure to except to proposed report).

**§ 615.22. Brief opposing exceptions.**

(a) *Generally.* In response to a brief on exceptions, a party may file with the Docket Clerk a brief opposing exceptions within 20 days of date of service of the brief on exceptions.

(b) *Content.* A brief opposing exceptions shall, at a minimum, respond to the arguments contained in the brief on exceptions.

(c) *Service.* On the date of filing, a party shall simultaneously serve a copy of the brief opposing exceptions on the opposing party by first class mail, unless the parties mutually agree to accept service by electronic mail. A party shall include with their brief opposing exceptions a certificate of service indicating proper service on the opposing party.

(1) When a brief opposing exceptions is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When a brief opposing exceptions is served by electronic mail, the date of receipt recorded by the opposing party's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.212 (a) and (b) (relating to content and form of briefs on exceptions).

**§ 615.23. Further response or pleading.**

After the filing of a brief opposing exceptions, or the expiration of the time period for filing a brief opposing exceptions, whichever occurs first, no further response or pleading by any party

will be entertained unless the Secretary of Administration, or their designee, with or without motion, so orders.

**§ 615.24. Final decision and order.**

(a) After reviewing the record, including any briefs on exceptions and briefs opposing exceptions, the Secretary of Administration, or their designee, shall issue a final decision and order, which will be provided to the parties and filed with the Docket Clerk. The Secretary of Administration, or their designee, may affirm, modify, or reverse the findings of credibility and fact, the conclusions of law, and the decision of the presiding officer as the secretary deems appropriate on the basis of all of the record evidence.

(b) Subsection (a) supersedes 1 Pa. Code § 35.226(a) (relating to final orders).

**Subchapter C. LIST CANCELLATION HEARINGS**

Sec.

615.25. Generally.

615.26. Notice of list of cancellation hearing.

615.27. Format of hearing.

615.28. Record of proceedings.

615.29. Notice of list cancellation.

**§ 615.25. Generally.**

(a) Under 71 Pa.C.S. § 2307(d) (relating to duration of eligible lists), the Office of Administration will hold a hearing before cancelling the whole or a part of an eligible list due to illegality or fraud in connection with the eligible list. The hearings shall be referred to as “list cancellation hearings.”

(b) Subsection (a) supersedes 1 Pa. Code § 35.121 (relating to initiation of hearings).

**§ 615.26. Notice of list cancellation hearing.**

(a) The Office of Administration shall provide advance notice of a list cancellation hearing to those eligibles whose names appear on the relevant list. The notice will contain a statement of

the matters to be addressed at the hearing, as well as specific instructions regarding the date, time and place of hearing. Additionally, the notice will provide instructions on how an eligible can submit to the Office of Administration written objections concerning the list cancellation.

(b) Subsection (a) supersedes 1 Pa. Code § 35.121 (relating to initiation of hearings).

**§ 615.27. Format of hearing.**

(a) At the onset of a list cancellation hearing, the presiding officer shall make a statement describing the circumstances necessitating the cancellation of the list, including the findings and conclusions of any investigation undertaken by the Office of Administration. Thereafter, each eligible whose name appears on the relevant list and objected, in writing, to the cancellation will be given an opportunity to state their objections, under oath or affirmation, on the record. After all objections are heard, the presiding officer shall adjourn the hearing, and the record shall be considered closed.

(b) Subsection (a) supersedes 1 Pa. Code § 35.123 (relating to conduct of hearings).

**§ 615.28. Record of proceedings.**

(a) A complete stenographic record of the proceedings shall be made. Individuals may arrange to purchase copies of the record directly with the reporting service. The Office of Administration's copy of the record may be reviewed at the Office of Administration's office in Harrisburg. Arrangements to review the record may be made by contacting the Docket Clerk.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.131 and 35.133(a) and (b) (relating to recording of proceedings; and copies of transcripts).

**§ 615.29. Notice of list cancellation.**

If, after holding a list cancellation hearing, the Office of Administration determines that cancellation of the whole or a part of an eligible list is warranted due to illegality or fraud in

connection with the eligible list, the Office of Administration shall provide notice of the cancellation of the list to those eligibles whose names appeared on the relevant list.



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ADMINISTRATION

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>TH</sup> Floor, Harrisstown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Rulemaking  
Office of Administration - Proposed Rulemaking No. 99-13  
Civil Service Reform Regulations  
4 Pa. Code CH. 608-615

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the Office of Administration pertaining to Civil Service Reform.

The Office of Administration will be pleased to provide whatever information the Commission may require during the course of its review of the proposed rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to be 'Neil Weaver'.

---

Neil Weaver  
Secretary of Administration

## Madison Brame

---

**From:** Himebaugh, Nicholas A. <NHimebaugh@pahouse.net>  
**Sent:** Thursday, July 11, 2024 2:47 PM  
**To:** Fisher, Joshua  
**Cc:** Weaver, Neil; Herbster, Keith; Wills, Teresa; Passiment, Jessica; Passiment, Michael; White, Lydia; Martin, Miranda; Holbert, Anthony R.  
**Subject:** Re: Proposed Rulemaking OA 99-13

Good afternoon,

We are in receipt of these proposed rules.  
Thank you!

Nicholas Himebaugh  
Dem. Committee Executive Director  
House State Government Committee  
C: 484-686-3281

RECEIVED

Independent Regulatory  
Review Commission

July 11, 2024

Get [Outlook for iOS](#)

---

**From:** Fisher, Joshua <joshufishe@pa.gov>  
**Sent:** Thursday, July 11, 2024 2:35 PM  
**To:** Himebaugh, Nicholas A. <NHimebaugh@pahouse.net>  
**Cc:** Weaver, Neil <neweaver@pa.gov>; Herbster, Keith <kherbster@pa.gov>; Wills, Teresa <tewills@pa.gov>; Passiment, Jessica <jpassiment@pa.gov>; Passiment, Michael <mpassiment@pa.gov>; White, Lydia <lywhite@pa.gov>; Martin, Miranda <mirmartin@pa.gov>; Holbert, Anthony R. <aholbert@pa.gov>  
**Subject:** Proposed Rulemaking OA 99-13

Good afternoon,

Attached please find the PA Office of Administration's Proposed Rulemaking, OA 99-13. Please confirm via email reply receipt of this email and its attachment.

Please let me know if you have any questions or concerns.

Thank you,

**Joshua Fisher | Litigation Coordinator**  
Governor's Office of General Counsel  
PA Office of Administration | Office of Chief Counsel  
408 Finance Building | 613 North Street  
Harrisburg, PA 17120  
Telephone: (717) 783-2590  
[www.oa.pa.gov](http://www.oa.pa.gov)

## Madison Brame

---

**From:** Pamela Neugard <Pneugard@pahousegop.com>  
**Sent:** Thursday, July 11, 2024 3:06 PM  
**To:** Fisher, Joshua  
**Cc:** Michaele Totino  
**Subject:** RE: [EXTERNAL]: Proposed Rulemaking OA 99-13

Hi Joshua,  
We have received the rulemaking.

Thank you,

Pam Neugard  
Administrative Assistant II  
[pneugard@pahousegop.com](mailto:pneugard@pahousegop.com)

State Representative Brad Roae  
Republican Chairman, House State Government Committee  
717-787-2353

RECEIVED

Independent Regulatory  
Review Commission

July 11, 2024

---

**From:** Fisher, Joshua <joshufishe@pa.gov>  
**Sent:** Thursday, July 11, 2024 2:34 PM  
**To:** Michaele Totino <Mtotino@pahousegop.com>  
**Cc:** Weaver, Neil <neweaver@pa.gov>; Herbster, Keith <kherbster@pa.gov>; Wills, Teresa <tewills@pa.gov>; Passiment, Jessica <jpassiment@pa.gov>; Passiment, Michael <mpassiment@pa.gov>; White, Lydia <lywhite@pa.gov>; Martin, Miranda <mirmartin@pa.gov>; Holbert, Anthony R. <aholbert@pa.gov>; Pamela Neugard <Pneugard@pahousegop.com>  
**Subject:** [EXTERNAL]: Proposed Rulemaking OA 99-13  
**Importance:** High

Good afternoon,

Attached please find the PA Office of Administration's Proposed Rulemaking, OA 99-13. Please confirm via email reply receipt of this email and its attachment.

Please let me know if you have any questions or concerns.

Thank you,

**Joshua Fisher | Litigation Coordinator**  
Governor's Office of General Counsel  
PA Office of Administration | Office of Chief Counsel  
408 Finance Building | 613 North Street  
Harrisburg, PA 17120  
Telephone: (717) 783-2590  
[www.oea.pa.gov](http://www.oea.pa.gov)

## Madison Brame

---

**From:** Centurione, Nick <Nick.Centurione@pasenate.com>  
**Sent:** Thursday, July 11, 2024 2:42 PM  
**To:** Fisher, Joshua  
**Subject:** RE: Proposed Rulemaking OA 99-13

RECEIVED

Thanks! Confirming receipt of the proposed rulemaking

Independent Regulatory  
Review Commission

---

**From:** Fisher, Joshua <joshufishe@pa.gov>  
**Sent:** Thursday, July 11, 2024 2:34 PM  
**To:** Centurione, Nick <nick.centurione@pasenate.com>  
**Cc:** Weaver, Neil <neweaver@pa.gov>; Herbster, Keith <kherbster@pa.gov>; Wills, Teresa <tewills@pa.gov>; Passiment, Jessica <jpassiment@pa.gov>; Passiment, Michael <mpassiment@pa.gov>; White, Lydia <lywhite@pa.gov>; Martin, Miranda <mirmartin@pa.gov>; Holbert, Anthony R. <aholbert@pa.gov>  
**Subject:** Proposed Rulemaking OA 99-13  
**Importance:** High

July 11, 2024

■ EXTERNAL EMAIL ■

---

Good afternoon,

Attached please find the PA Office of Administration's Proposed Rulemaking, OA 99-13. Please confirm via email reply receipt of this email and its attachment.

Please let me know if you have any questions or concerns.

Thank you,

**Joshua Fisher | Litigation Coordinator**  
Governor's Office of General Counsel  
PA Office of Administration | Office of Chief Counsel  
408 Finance Building | 613 North Street  
Harrisburg, PA 17120  
Telephone: (717) 783-2590  
[www.oa.pa.gov](http://www.oa.pa.gov)

This message and any attachment may contain privileged or confidential information intended solely for the use of the person to whom it is addressed. If the reader is not the intended recipient then be advised that forwarding, communicating, disseminating, copying or using this message or its attachments is strictly prohibited. If you receive this message in error, please notify the sender immediately and delete the information without saving any copies.

## Madison Brame

---

**From:** Burnett, David <dburnett@pasen.gov>  
**Sent:** Thursday, July 11, 2024 2:39 PM  
**To:** Fisher, Joshua  
**Subject:** RE: Proposed Rulemaking OA 99-13

Receipt confirmed, thanks Joshua.

Regards,  
-David

**David Burnett**  
*Counsel and Executive Director*  
*Senate State Government Committee*  
*9 East Wing*  
*Harrisburg, PA 17120*  
*Phone: 717-787-7084*

RECEIVED

Independent Regulatory  
Review Commission

July 11, 2024

Confidentiality Notice: This electronic communication is privileged and confidential and is intended only for the party to whom it is addressed. Any use, dissemination, distribution, or copying of this information other than by the intended user is unauthorized and may be unlawful. If received in error, please return to sender and delete the unauthorized communication. Thank you.

---

**From:** Fisher, Joshua <joshufishe@pa.gov>  
**Sent:** Thursday, July 11, 2024 2:34 PM  
**To:** Burnett, David <dburnett@pasen.gov>  
**Cc:** Weaver, Neil <neweaver@pa.gov>; Herbster, Keith <kherbster@pa.gov>; Wills, Teresa <tewills@pa.gov>; Passiment, Jessica <jpassiment@pa.gov>; Passiment, Michael <mpassiment@pa.gov>; White, Lydia <lywhite@pa.gov>; Martin, Miranda <mirmartin@pa.gov>; Holbert, Anthony R. <aholbert@pa.gov>  
**Subject:** Proposed Rulemaking OA 99-13  
**Importance:** High

ⓘ CAUTION : External Email ⓘ

Good afternoon,

Attached please find the PA Office of Administration's Proposed Rulemaking, OA 99-13. Please confirm via email reply receipt of this email and its attachment.

Please let me know if you have any questions or concerns.

Thank you,

**Joshua Fisher | Litigation Coordinator**  
Governor's Office of General Counsel  
PA Office of Administration | Office of Chief Counsel  
408 Finance Building | 613 North Street  
Harrisburg, PA 17120  
Telephone: (717) 783-2590  
[www.oa.pa.gov](http://www.oa.pa.gov)

## Madison Brame

---

**From:** Bulletin <bulletin@palrb.us>  
**Sent:** Friday, July 12, 2024 9:56 AM  
**To:** Holbert, Anthony R.  
**Cc:** Adeline E. Gaydosh; Fisher, Joshua  
**Subject:** [External] Re: OA Proposed Rulemaking (99-13)

RECEIVED

Independent Regulatory  
Review Commission

July 11, 2024

**ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).

Good morning, Anthony,

Ok, that's terrific!

Thank you for sending the official package for 99-13. It is scheduled for publication in the 8/3 issue of the *Pennsylvania Bulletin*.

Upon receipt of the processed galley (pdf), I will return it to you with an edited word file. We do ask that you review the word file (no need to accept changes - just comment if something shouldn't be done) and review the pdf since it's a representation of the final published product.

Have a great day!  
Adeline

**Adeline Gaydosh | Legal Assistant**  
[agaydosh@palrb.us](mailto:agaydosh@palrb.us) | 717.783.3984  
Legislative Reference Bureau  
*Pennsylvania Code & Bulletin Office*  
647 Main Capitol Building  
Harrisburg, PA 17120

---

**From:** Holbert, Anthony R. <aholbert@pa.gov>  
**Sent:** Friday, July 12, 2024 9:49 AM  
**To:** Bulletin <bulletin@palrb.us>  
**Cc:** Adeline E. Gaydosh <agaydosh@palrb.us>; Fisher, Joshua <joshufishe@pa.gov>  
**Subject:** Re: OA Proposed Rulemaking (99-13)

Hi, Adeline:

I received your voicemail regarding publication. I do not see an issue with the August date if that is the soonest it can be published. Since we submitted everything to IRRC and the Committees yesterday, we should be okay once we receive confirmation of LRB's receipt.

Thanks!

Anthony R. Holbert | Deputy Chief Counsel  
Governor's Office of General Counsel

Office of Administration | Office of Chief Counsel  
408 Finance Building | 613 North Street  
Harrisburg, PA 17120  
Phone: 717.783.2590 | Fax: 717.783.5455  
www.ogc.pa.gov<<http://www.ogc.pa.gov/>> | www.oa.pa.gov<<http://www.oa.pa.gov/>>

PRIVILEGED AND CONFIDENTIAL COMMUNICATION

The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all devices. Unintended transmissions shall not constitute waiver of the attorney-client privilege or any other privilege.

---

From: Holbert, Anthony R. <aholbert@pa.gov>  
Sent: Friday, July 12, 2024 9:34 AM  
To: Bulletin <bulletin@palrb.us>  
Cc: Adeline E. Gaydosh <agaydosh@palrb.us>; Fisher, Joshua <joshufishe@pa.gov>  
Subject: Re: OA Proposed Rulemaking (99-13)

Good morning:

I am writing in follow up to my below email. If you could confirm receipt of our proposed rulemaking, I would appreciate it. IRRC will not accept our submission without confirmation of receipt from LRB.

Thanks!

Anthony R. Holbert | Deputy Chief Counsel  
Governor's Office of General Counsel  
Office of Administration | Office of Chief Counsel  
408 Finance Building | 613 North Street  
Harrisburg, PA 17120  
Phone: 717.783.2590 | Fax: 717.783.5455  
www.ogc.pa.gov<<http://www.ogc.pa.gov/>> | www.oa.pa.gov<<http://www.oa.pa.gov/>>

PRIVILEGED AND CONFIDENTIAL COMMUNICATION

The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all devices. Unintended transmissions shall not constitute waiver of the attorney-client privilege or any other privilege.

---

From: Holbert, Anthony R.  
Sent: Thursday, July 11, 2024 3:43 PM  
To: Bulletin <bulletin@palrb.us>  
Cc: Adeline E. Gaydosh <agaydosh@palrb.us>  
Subject: OA Proposed Rulemaking (99-13)

Good afternoon, Adeline:

Attached, please find the Office of Administration's proposed rulemaking, which was delivered to relevant

standing committees this afternoon. Please confirm receipt of our package.

Thanks!

Anthony R. Holbert | Deputy Chief Counsel  
Governor's Office of General Counsel  
Office of Administration | Office of Chief Counsel  
408 Finance Building | 613 North Street  
Harrisburg, PA 17120  
Phone: 717.783.2590 | Fax: 717.783.5455  
www.ogc.pa.gov<<http://www.ogc.pa.gov/>> | www.oa.pa.gov<<http://www.oa.pa.gov/>>

**PRIVILEGED AND CONFIDENTIAL COMMUNICATION**

The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all devices. Unintended transmissions shall not constitute waiver of the attorney-client privilege or any other privilege.