

STATE GOVERNMENT (71 PA.C.S.) - CIVIL SERVICE REFORM

Act of Jun. 28, 2018, P.L. 460, No. 71

Cl. 71

Session of 2018

No. 2018-71

SB 1037

AN ACT

Amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, consolidating the Civil Service Act; providing for civil service reform in the areas of merit-based hiring, civil service applications, certification, examinations and promotions; and making related repeals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 71 of the Pennsylvania Consolidated Statutes is amended by adding a part to read:

PART III

CIVIL SERVICE REFORM

Chapter

21. General Provisions
22. Merit System Employment
23. Selection of Employees for Entrance to or Promotion in Classified Service
24. Appointment and Promotion of Employees in Classified Service
25. Regulation of Employees in Classified Service
26. Separation of Employees from Classified Service
27. Prohibitions, Penalties and Enforcement
28. Notice of Personnel Actions
29. Services Available, Costs and Funding
30. State Civil Service Commission and Director
31. Hearings and Records
32. Commission Funds, Costs and Service
33. Records, Status and Appropriations

CHAPTER 21

GENERAL PROVISIONS

Sec.

2101. Scope of part.

2102. Purpose.

2103. Definitions.

§ 2101. Scope of part.

This part relates to civil service reform.

§ 2102. Purpose.

The purpose of this part is to create and sustain a modern merit system of employment within the Commonwealth workforce that promotes the hiring, retention and promotion of highly qualified individuals, ensuring that government services are efficiently and effectively delivered to the public.

§ 2103. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Appointing authority." The officers, board, commission, individual or group of individuals having power by law to make appointments in the classified service.

"Board." The Executive Board of the Commonwealth.

"Civil Service Act." The former act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act.

"Classified service." As follows:

(1) A position filled under the merit system of employment, including:

(i) Each position existing on or created after August 5, 1941, in the Department of Human Services, including the county boards of assistance, except for a student worker in institutions operated by the Office of Children, Youth and Families.

(ii) The following:

(A) Each position existing on or created after August 5, 1941, in the Department of Labor and Industry which is charged with the administration of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

(B) Each position which is charged with the administration of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, and the act of July 26, 1913 (P.L.1363, No.851), referred to as the Occupational Disease Prevention Law, including the positions of workers' compensation judges. The term shall not include the positions of members of the Workers' Compensation Appeal Board and members and employees of the State Workers' Insurance Board and the State Workers' Insurance Fund.

(iii) Each position existing on or created after August 5, 1941, in the Pennsylvania Liquor Control Board.

(iv) Each position existing on or created after August 5, 1941, in the commission.

(v) Each position existing on or created after August 5, 1941, in the Pennsylvania Board of Probation and Parole.

(vi) Each position existing on or created after August 5, 1941, in the Department of Education. The term shall not include the presidents, faculty members and student employees of the State colleges, the heads and faculty members of the Department of Education's other educational institutions and county superintendents, assistant county superintendents and supervisors of special education.

(vii) Each position existing on or created after August 5, 1941, in the Department of Health. The term shall not include patient employees at institutions operated by the Department of Health.

(viii) Each position existing on or created after August 5, 1941, in the Department of Banking and Securities.

(ix) Each position existing on or created after August 5, 1941, in the Insurance Department.

(x) Each position existing on or created after August 5, 1941, in the State Employees' Retirement Board and under the professional licensing boards in the Department of State.

(xi) Each position existing on or created after August 5, 1941, in a department or agency under the Governor's jurisdiction which:

(A) Is required to be under a merit system in order to qualify the agency or department for the

receipt of money from the Federal Government or an agency or instrumentality of the Federal Government.

(B) Was designated as professional or technical by the board on or before October 1, 1962.

(C) Was covered by civil service under the terms of an agreement entered into between the department or agency and the commission after October 1, 1962, other than agreements arising out of the board resolution of September 10, 1956, as amended and supplemented.

(xii) The positions of engineer, geologist, chemist, planning specialist, statistician, economist, photogrammetrist, architect, landscape architect, cartographer, draftsmen and surveyor in the Department of Transportation.

(xiii) Each position in a local civil defense organization which a political subdivision may bring under the provisions of 35 Pa.C.S. § 7312(f) (relating to organization), upon the exercise of the authority.

(xiv) Each position existing on or created after December 3, 1975, in the Pennsylvania Labor Relations Board. The term shall not include an executive director, secretary, regional director, attorney and attorney examiner.

(2) The term shall not include a position included in the unclassified service.

"Commission." The State Civil Service Commission.

"Demotion." The voluntary or involuntary movement of an employee to a class assigned to a pay range with a lower maximum salary.

"Director." The Executive Director of the State Civil Service Commission.

"Eligible." An individual whose name is on an eligible list.

"Eligible list." An employment list, promotion list or reemployment list.

"Employee." Except as provided in section 2705(g) (relating to political activity), an individual legally occupying a position in the classified service.

"Employment list." A list of individuals who have been found qualified by an entrance examination for appointment to a position in a particular class.

"Entrance examination." An examination for a position in a particular class, admission to which is not limited to an individual employed in the classified service.

"Furlough." The termination of employment because of lack of work or lack of funds.

"Job," "job title," "class" or "class of positions." A group of positions in the classified service which are sufficiently similar in respect to the duties and responsibilities of the positions that the same:

(1) descriptive title may be used for each position;

(2) requirements as to experience, knowledge and ability are demanded of incumbents;

(3) assessments may be used to choose qualified appointees; and

(4) schedule of compensation may be made to apply with fairness under like working conditions.

"Permanent position." A position in the classified service which does not have an expiration date.

"Position." A group of current duties and responsibilities assigned or delegated by competent authority requiring the full-time or part-time employment of one individual.

"Probationary period." A preliminary period of employment, the purpose of which is to determine the fitness of an employee for regular status.

"Promotion." The movement of an employee to another class in a pay range with a higher maximum salary.

"Promotion examination." An examination for a position in a particular class, admission to which is limited to an employee in the classified service who has held a position in another class.

"Promotion list." A list of individuals determined to be qualified by a promotion examination for appointment to a position in a particular class.

"Regular employee." An employee who has been appointed to a position in the classified service in accordance with this part after completion of the employee's probationary period.

"Removal." The permanent separation from the classified service of an employee who has been permanently appointed.

"Temporary position." A position in the classified service resulting from temporary pressure of extra work which is likely to continue for a period of 12 months or less.

"Unclassified service." Each position existing on or created after August 5, 1941, in a department and agency included in the definition of classified service which are held by any of the following:

(1) A head and deputy head of a department of the Commonwealth, bureau director, division chief and all other supervisory personnel whose duties include participation in policy decisions.

(2) A member of a board or commission.

(3) One secretary or one confidential clerk and not more than five other personal assistants or aides to each State appointing authority or each member of the State appointing authority, except the commission and the director.

(4) An individual appointed for the duration of a special study, project or internship which is scheduled to be completed after a fixed or limited period of time and which should not be performed by an individual in the classified service.

(5) An attorney that the appointing authority appoints.

(6) Unskilled labor.

(7) Each professional position attached to the department head's office which functions in press, public relations, legislative liaison or development of executive policy.

"Unskilled labor." An individual occupying or assigned to a position for which the principal job function is manual labor or work requiring limited or no prior education or training.

"Veteran." An individual who served in the United States Armed Forces, including a reserve component or National Guard, and who was honorably discharged or released from service.

## CHAPTER 22

### MERIT SYSTEM EMPLOYMENT

Sec.

2201. Transfer of duties.

2202. Duties of Office of Administration.

2203. Regulations.

2204. Federal standards.

2205. Legislative representation for collective bargaining.

§ 2201. Transfer of duties.

Beginning on the effective date of this section, the Office of Administration shall perform the duties conducted by the

commission and the director under the Civil Service Act, except sections 950 and 951(a), (b) and (c) of the Civil Service Act. § 2202. Duties of Office of Administration.

(a) Duties.--The Office of Administration shall have the power and duty to implement and administer this part as follows:

(1) Perform the duties conducted, prior to the effective date of this section, by the commission and the director under section 2201 (relating to transfer of duties).

(2) Direct and supervise the administrative work of merit system employment.

(3) Appoint staff to classified service positions necessary to carry out the provisions of this part.

(4) Provide merit system employment for the Commonwealth in accordance with this part.

(5) Advertise, on the Office of Administration's publicly accessible Internet website and in each Office of Administration announcement and advertisement, that:

(i) veterans' preference is the law of this Commonwealth;

(ii) to determine standing on each certified eligibility list, an additional 10 points shall be applied to the final examination score obtained by a veteran, in accordance with 51 Pa.C.S. § 7103 (relating to additional points in grading civil service examinations); and

(iii) the same preferential rating given to veterans under this chapter shall be extended to include spouses of deceased or disabled veterans, in accordance with 51 Pa.C.S. § 7108 (relating to preference of spouses).

(6) Administer this part, except for Chapters 30 (relating to State Civil Service Commission and director) and 31 (relating to hearings and records).

(7) Request assistance from State departments, agencies, boards or commissions, if necessary.

(8) Cooperate with other civil service agencies.

(9) Investigate as requested by the Governor or the General Assembly and to report on the investigation.

(10) Investigate, notwithstanding any other provision of this part, personnel action taken under this part and hold public hearings, record findings and conclusions and order action to assure observance of this part.

(11) Administer oaths and require testimony and the production of documents and records.

(12) Appoint a special advisor for veterans' programs who shall be a veteran and who will:

(i) ensure compliance under this part with the provisions of 51 Pa.C.S. Pt. V (relating to employment preferences and pensions); and

(ii) promote and implement policies to increase the awareness and understanding of the value of recruiting, hiring and retaining veterans for the Commonwealth workforce under this part.

(b) Oaths, testimony and documents.--The following shall apply:

(1) The Secretary of Administration and any other employee or agency authorized by the secretary shall have the power to administer oaths in matters pertaining to the work of the Office of Administration under this part.

(2) The Office of Administration shall have the power to secure by subpoena the attendance and testimony of witnesses and the production of documents and records.

(c) Authority of court.--A judge of a court of record shall, upon proper application of the Office of Administration, compel the attendance of witnesses, the production of documents and records and the giving of testimony before the Office of Administration in the same manner as the production of evidence may be compelled before the court.

§ 2203. Regulations.

(a) Authority.--The Office of Administration may promulgate regulations necessary to carry out the provisions of this part.

(b) Temporary regulations.--

(1) In order to facilitate the prompt implementation of this part, the Office of Administration may promulgate temporary regulations which shall expire no later than three years following the publication of the temporary regulations. The Office of Administration may promulgate temporary regulations not subject to:

(i) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(ii) Section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(iii) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) The authority provided to the Office of Administration to adopt temporary regulations under paragraph

(1) shall expire three years following the publication of the temporary regulations. Regulations adopted after this period shall be promulgated as provided by law.

§ 2204. Federal standards.

(a) Duty.--Notwithstanding any other provision of this part, the Commonwealth and its political subdivisions shall take action with respect to matters involving personnel administration as necessary to ensure the continued eligibility of the Commonwealth and its political subdivisions for Federal grants-in-aid.

(b) Prohibition.--Notwithstanding any other provision of this part, a State program which is required to have the State program's positions under a merit system because of the receipt of Federal grants-in-aid may not have more positions in the unclassified service than are allowed by Federal merit system standards.

§ 2205. Legislative representation for collective bargaining.

The President pro tempore of the Senate and the Speaker of the House of Representatives may jointly appoint a competent industrial relations specialist, who may not be a member of the General Assembly, to represent the General Assembly at collective bargaining negotiations relating to individuals in the classified service by observing the proceedings and submitting reports of the proceedings to the President pro tempore of the Senate and the Speaker of the House of Representatives.

CHAPTER 23  
SELECTION OF EMPLOYEES FOR ENTRANCE TO  
OR PROMOTION IN CLASSIFIED SERVICE

Sec.

2301. Examinations requisite for appointment and promotion.

2302. Nature of examinations.

2303. Holding examinations and rating competitors.

2304. Public notice of examinations.

2305. Ratings of competitors.

2306. Establishment of eligible lists.

2307. Duration of eligible lists.

§ 2301. Examinations requisite for appointment and promotion.

(a) General rule.--Except as otherwise provided in this chapter, the appointment of an individual entering the classified service or promoted in the classified service shall be from an eligible list established as the result of examinations given by the Office of Administration to determine the relative merit of candidates. Examinations may be written and shall be competitive and open to each individual who may be lawfully appointed to the position within the class for which the examinations are held. An individual in an unskilled position shall enter the classified service by promotion without examination in accordance with the following:

(1) The individual shall enter the classified service if:

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

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

(iii) The individual meets the minimum requirements for that position.

(iv) The individual satisfactorily completes a six-month probationary period in the classified position.

(2) If no individuals in the unskilled positions meet the requirements under paragraph (1), the vacant position may be filled under this chapter.

(b) Requirements.--The following apply:

(1) An individual applying for a position or promotion in the classified service shall be a resident of this Commonwealth or former resident of this Commonwealth who meets the requirements of this subsection and, if applicable, of the district.

(2) A former resident of this Commonwealth shall be eligible if the individual:

(i) relocated out of State for academic or employment purposes;

(ii) plans to establish Commonwealth residency within six months of beginning employment in the classified service; and

(iii) has done one of the following:

(A) Graduated from a public, private or nonpublic secondary school in this Commonwealth or satisfied the requirements of sections 1327 and 1327.1 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, within five years of applying for a position in the classified service.

(B) Satisfied the requirements of sections 1327 and 1327.1 of the Public School Code of 1949 or attended a public, private or nonpublic school in the Commonwealth at least 80% of the time while enrolled in grades one through twelve and attended the school within five years of applying for a position in the classified service.

(C) Graduated or attended a public, private or nonpublic secondary school in the Commonwealth or satisfied the requirements of sections 1327 and 1327.1 of the Public School Code of 1949 and graduated from a postsecondary institution in the Commonwealth within five years of applying for a position in the classified service.

(3) Notwithstanding any other provision of this chapter, if an appointing authority finds a lack of qualified individuals available for appointment to a particular class or classes of positions, the appointing authority may present evidence of the lack of qualified personnel to the Office of Administration, which may waive the residence requirements for the class or classes of positions.

(c) Eligible lists.--The Office of Administration shall prepare the proper State and district eligible lists. If, after an examination has been conducted for a class of positions, there is no individual with legal residence in a district remaining on the register, the Office of Administration shall certify and the appointing authority may make the appointment or promotion from the names of individuals on an appropriate eligible list for the same class of positions of other districts. Qualifications as permitted by law may be specified in the regulations and in the announcements of the examinations. All applications for positions in the classified service shall be subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(d) Limitation of competition.--The Office of Administration may limit competition in promotion examinations to employees in the classified service who have completed a probationary period in a class or classes designated in the public notice of the examinations and may permit promotions to be accomplished by any one of the following plans:

(1) Appointment from open competitive lists.

(2) Achieving a place on an eligible list after a promotional examination given at the request of the appointing authority.

(3) Promotion based upon meritorious service and seniority to be accomplished by appointment without examination if the individual has completed the probationary period in the next lower position and meets the minimum requirements for the higher position.

(e) Preference.--To the extent permitted by law, when all applicants for appointment and promotion to a position in the classified service are equally qualified, preference shall be shown to applicants who are United States citizens over those who are not United States citizens.

§ 2302. Nature of examinations.

(a) General rule.--Examinations shall be conducted to establish employment and promotion lists. Examinations may be:

(1) Written or oral.

(2) A demonstration of skill.

(3) An evaluation of experience and education.

(4) A combination of paragraphs (1), (2) and (3) which fairly appraise the fitness and ability of competitors.

(b) Method of examination.--The appointing authority shall select the method of examination that will be used for the individual position or the class of positions for which the employment or promotion list is being established. The examinations shall:

(1) Be practical in nature.

(2) Relate to the duties and responsibilities of the position for which the applicant is being examined.

(3) Fairly test the relative capacity and fitness of individuals examined to perform the duties of the position or class of positions to which the individuals seek to be appointed or promoted.

(c) Qualifications.--An applicant may be required to possess scholastic education qualifications only if the position for



which the applicant is being examined requires professional or technical knowledge, skills and abilities or if the scholastic qualifications are required to ensure the continued eligibility of the Commonwealth for Federal grants-in-aid. No greater credit for experience gained during a provisional, emergency or temporary appointment under this chapter shall be given to an individual in an examination than is given for experience in the same type of work performed in a similar position not under the provisions of this chapter.

(d) Military service.--In evaluating experience in order to compute the final rating in an examination to establish eligible lists, an individual discharged other than dishonorably after active service during a war or armed conflict in which the United States engaged, from a branch of the armed forces of the United States or from a women's uniformed service directly connected with the armed forces of the United States, may not be given less credit for experience than would be given for continued experience in the position held at the time of induction into the service.

(e) Discriminatory questions prohibited.--No question in an examination shall relate to the race, gender, religion, disability or political or labor union affiliation of the candidate.

§ 2303. Holding examinations and rating competitors.

The Office of Administration shall prepare and hold examinations rating the work of competitors and prepare the resulting eligible lists. Individuals not on the regular staff of the Office of Administration may be called on for assistance.

§ 2304. Public notice of examinations.

The Office of Administration shall give public notice of all examinations for positions or promotions in the classified service at least two weeks in advance of the final date for filing applications.

§ 2305. Ratings of competitors.

(a) Computation of rating.--The final earned rating of an individual competing in an examination shall be attained by computing the ratings for each part or parts of the examination, the qualifying point for which is set by the Office of Administration, according to weights for each test.

(b) Notification.--The Office of Administration shall provide notice by e-mail or other communication or method, if available, or, alternatively, by United States mail, to all competitors informing them whether they have attained a place on the eligible list and informing those who have attained a place on the eligible list of the number of individuals who took the examination, the number of individuals on the eligible list and the individual's relative standing on the eligible list.

§ 2306. Establishment of eligible lists.

The Office of Administration shall establish and maintain eligible lists as are necessary or desirable to meet the needs of the service. The eligible lists shall contain the names of each individual who has qualified for and successfully passed the examination. The eligible list shall be arranged in the order of final earned ratings.

§ 2307. Duration of eligible lists.

(a) Duration.--The duration of an eligible list shall be fixed by the Office of Administration. An existing eligible list shall terminate upon the establishment of an appropriate, new, eligible list unless otherwise prescribed by the Office of Administration.

(b) Utilization of current eligible lists.--Appointing authorities shall utilize eligible lists from the date of the establishment of the eligible list until exhausted, canceled by the Office of Administration or replaced by more recently prepared eligible lists.

(c) Correction and revision.--The Office of Administration may correct clerical errors occurring in connection with the preparation of an eligible list and revise the eligible list accordingly. No individual who has been appointed as the result of certification from the eligible list shall be displaced by the action.

(d) Cancellation.--The Office of Administration shall have the power, after giving notice as required in this part and after a public hearing, to cancel the whole or a part of an eligible list on account of illegality or fraud in connection with the eligible list.

#### CHAPTER 24 APPOINTMENT AND PROMOTION OF EMPLOYEES IN CLASSIFIED SERVICE

Sec.

2401. Certification.

2402. Selection and appointment of eligibles.

2403. Substitution during military leave.

2404. Probationary period.

2405. Provisional appointments.

2406. Temporary appointments to extra positions.

2407. Emergency appointments.

§ 2401. Certification.

(a) Statement of vacancy.--If a vacancy is likely to occur or is to be filled in the classified service, the appointing authority shall submit to the Office of Administration a statement indicating the position to be filled.

(b) Certification of available individuals.--

(1) The Office of Administration shall certify to the appointing authority the names of the three highest-ranking available individuals on the certification of eligibles, except if any of the following apply:

(i) The appointing authority elects to follow an alternative selection procedure under section 2402(a) (relating to selection and appointment of eligibles).

(ii) A labor agreement covering promotions in the classified service exists.

(iii) 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.

(2) If a labor agreement covering promotions in the classified service exists, the terms and procedures of the labor agreement relative to the procedures for promotions shall control.

(c) Lack of eligibles.--If the appropriate employment or promotion certification of eligibles contains fewer than three eligibles who are willing to accept appointment or if there is no appropriate eligible list, the appointing authority may appoint an available eligible from the approved eligible list or request the Office of Administration to certify from another eligible list deemed the next most appropriate.

(d) Selective certifications.--If operational conditions of the appointing authority dictate and it is in the interest of the service to the Commonwealth, the Office of Administration

may authorize selective certifications based on merit-related criteria.

(e) Waiver of consideration.--An individual on a promotion or employment list who waives consideration for promotion or appointment may not be considered among the names from which a promotion or appointment is to be made.

§ 2402. Selection and appointment of eligibles.

(a) Alternative selection procedure.--Unless a labor agreement contains promotion procedures which are inconsistent with this chapter, in which case the terms of the labor agreement shall be controlling, if a vacant position is to be filled, an appointing authority may:

(1) request that the Office of Administration issue an appropriate certification of previously tested and active eligibles; or

(2) request that the Office of Administration create and issue a certification of eligibles consisting only of the names of those candidates who responded by applying for the vacancy after receipt of notice of the vacancy from the Office of Administration. The failure of a candidate to apply for the vacancy shall be considered a waiver under section 2401 (relating to certification).

(b) Selection of certified eligibles.--The following apply:

(1) The certification of eligibles created and issued under this section shall be valid for 90 business days.

(2) 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.

(3) In making the second or subsequent selection from the eligibles on an employment or promotional certification, each selection shall be from among the similarly ranked available individuals remaining on the certification of eligibles.

(4) After an individual has been rejected three times by an appointing authority in favor of others on the same eligible list, the individual may not be certified to that appointing authority, except upon written request from the appointing authority.

(5) Appointing authorities shall promptly report to the Office of Administration the appointment of eligibles who have been certified.

(6) If a certified eligible refuses to accept an offer of employment, the refusal shall be promptly investigated by the Office of Administration and, if found that the refusal has been made for improper or insufficient reasons, the Office of Administration shall, after giving 10 days' notice to the individual, remove the eligible from the eligible list.

§ 2403. Substitution during military leave.

(a) Substitution for military leave.--When an employee in the classified service is granted military leave, the position vacated shall be filled only by substitute appointment or promotion and the employee appointed or promoted shall vacate the position upon return of the employee from military leave. A substitute employee, when required to vacate a position upon

the return of the regular employee, shall have the right to return to the substitute employee's previous civil service position and status.

(b) Substitute lists.--The substitute appointment or promotion shall be made from lists certified by the Office of Administration under this chapter.

§ 2404. Probationary period.

(a) Completion and duration.--

(1) No appointment to a position in the classified service shall be deemed complete until after the expiration of a probationary period.

(2) The probationary period for each class of positions shall be prescribed by the Office of Administration and, except for trainee classes, shall in no case be less than six months nor more than 18 months. The probationary period for a trainee class shall be combined with that of the class for which the trainee is being trained. The combined probationary period shall be the same as the training period and shall not exceed 24 months.

(3) The appointing authority may remove an employee during the probationary period if, in the opinion of the appointing authority, the probation indicates that the employee is unable or unwilling to perform the duties satisfactorily or that the employee's dependability does not merit continuance in the service. Upon removal, the appointing authority shall notify the employee in a manner prescribed by the Office of Administration.

(b) Notification of permanent status.--If the employee's work has been satisfactory, the appointing authority shall notify the employee in writing prior to the completion of the probationary period that the employee shall attain regular status in the classified service upon completion of the probationary period.

(c) Further appointment.--If an employee is removed from a position during or at the end of the probationary period and the Office of Administration determines that the employee is suitable for appointment to another position, the employee's name may be restored to the eligible list from which the name was certified.

§ 2405. Provisional appointments.

(a) Accelerated examination program.--The Office of Administration may authorize an accelerated examination program for the position to be filled if:

(1) there is a great and urgent public need to fill a vacancy in a position in the classified service;

(2) the Office of Administration is unable to certify an eligible for the vacancy from an eligible list or arrange for a reassignment, transfer, promotion or other means of filling the vacancy with a qualified employee; and

(3) there is no regular examination immediately available.

(b) Elements of program.--The accelerated examination program shall include:

(1) Abbreviated, localized advertising for the position to ensure open competition.

(2) Rapid processing and evaluation of the qualifications of applicants, ranking the applicants as well qualified, qualified and not qualified.

(3) Certification of applicants determined to be well qualified and qualified for the position.

(c) Appointment.--The appointing authority shall appoint applicants determined to be well qualified. If insufficient

well-qualified applicants are available, the appointment shall be made from the qualified group.

(d) Test period.--The appointee shall serve a six-month working test period upon successful completion of which the appointee shall be granted probationary status. Failure to successfully complete the working test period shall result in termination.

(e) Successive appointments prohibited.--Successive provisional appointments of the same individual may not be made to the same position or classification.

(f) Rights of provisional status.--The acceptance of a provisional appointment shall not confer upon the appointee rights of promotion, reinstatement or reassignment to another classification while in provisional status.

§ 2406. Temporary appointments to extra positions.

If, from pressure of work, an extra position in the classified service must be established for a period of 12 months or less, the appointing authority shall request the Office of Administration to certify the name of a qualified individual from an appropriate eligible list or by other means authorized by this part. In the request, the appointing authority shall state the cause of the extra work, the probable length of employment and the duties that the appointee is to perform.

§ 2407. Emergency appointments.

(a) Appointment during emergency period.--An appointing authority or a subordinate authorized by the appointing authority may, to prevent serious impairment of the public business when an emergency arises and time may not permit securing authorization from the Office of Administration for the appointment of a certified eligible, appoint a qualified individual during the emergency for a period not exceeding 30 days and, with the approval of the Office of Administration, extend the appointment for a further period not to exceed 30 days.

(b) Parameters.--The following shall not be considered an emergency:

(1) a vacancy of which the appointing authority had reasonable notice; or

(2) employment conditions of which the appointing authority had previous knowledge.

(c) Nomenclature.--Individuals appointed under subsection (a) shall be known as emergency employees.

(d) Report to Office of Administration.--Appointing authorities shall immediately report to the Office of Administration all emergency appointments.

(e) Nonrenewal.--Appointments made under subsection (a) may not be renewed.

## CHAPTER 25

### REGULATION OF EMPLOYEES IN CLASSIFIED SERVICE

Sec.

2501. Performance ratings.

2502. Transfers and reassignments.

2503. Demotions.

2504. Classification and compensation.

2505. Effect of reclassifications.

2506. Other personnel standards and rules.

§ 2501. Performance ratings.

(a) Evaluations.--Performance evaluations shall be considered for purposes prescribed by the Office of Administration.

(b) Frequency of evaluations.--Agencies shall evaluate the performance of agency employees during the employees' probationary periods and at least once a year thereafter.

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

§ 2502. Transfers and reassignments.

(a) Transfers.--The transfer of a classified service employee from a position under the jurisdiction of one appointing authority to a position in the same class under the jurisdiction of another appointing authority may be made with the approval of the Office of Administration and both appointing authorities.

(b) Reassignments.--An appointing authority may reassign a classified service employee under the appointing authority's jurisdiction from one position to another in the same class or in a similar class at the same pay range for which the employee qualifies.

(c) Manner of transfers and reassignments.--Transfers and reassignments shall be accomplished in a manner prescribed by the Office of Administration.

(d) Promotion.--A transfer or reassignment of an employee from a position in one class to a position in a class for which a higher maximum salary is prescribed shall be deemed a promotion and may be accomplished only in the manner provided for in this part.

(e) Appointment after certification.--No individual may be transferred or reassigned from a position in the unclassified service to a position in the classified service unless appointed to the classified service position after certification of the individual's name from an eligible list in accordance with the provisions of this part.

§ 2503. Demotions.

(a) Employees subject to demotion and rights.--The following apply:

(1) An appointing authority may demote to a vacant position in a lower class an employee in the classified service who does not satisfactorily perform the duties of the position to which the employee was appointed or promoted and who is able to perform the duties of the lower class position.

(2) In case of a demotion, the employee shall have all rights of appeal as provided in this part.

(3) No employee may be demoted because of the employee's race, gender, religion, disability or political, partisan or labor union affiliation or other nonmerit factor.

(b) Voluntary demotion.--A voluntary demotion may be made by an appointing authority upon written request of the employee with the approval of the Office of Administration.

§ 2504. Classification and compensation.

The classification of positions and the compensation of employees in the classified service shall conform to standards and rules adopted by the board.

§ 2505. Effect of reclassifications.

(a) Reclassification.--When an employee's job changes or the board changes a classification and a reallocation of the position becomes necessary, the employee shall be reclassified to the new classification, provided the employee meets the established requirements for the new classification.

(b) Reclassification to lower level.--Reclassification to a lower level shall not be construed as a demotion.

§ 2506. Other personnel standards and rules.

With respect to other personnel management matters, including hours of work, paid holidays, vacations, sick leave and employee training, employees in the classified service shall conform to standards and rules established by the Governor and the board for Commonwealth employees generally.

#### CHAPTER 26

#### SEPARATION OF EMPLOYEES FROM CLASSIFIED SERVICE

Sec.

2601. Temporary and permanent separations.

2602. Furlough.

2603. Suspension.

2604. Removal during probationary period.

2605. Rights of promoted employee during probationary period.

2606. Resignation.

2607. Removal.

2608. Leave of absence.

2609. Seniority.

§ 2601. Temporary and permanent separations.

An employee may be:

(1) Temporarily separated from the classified service through furlough, leave of absence or suspension.

(2) Permanently separated from the classified service through rejection on probation, retirement, resignation or removal.

§ 2602. Furlough.

(a) General rule.--

(1) If a reduction in force is necessary in the classified service:

(i) no employee may be furloughed while a probationary or provisional employee is employed in the same class in the same department or agency; and

(ii) no probationary employee may be furloughed while a provisional employee is employed in the same class in the same department or agency.

(2) The following apply:

(i) An employee shall be furloughed only if, at the time of furlough, the employee is within the lowest quarter among all employees of the employer in the same class on the basis of the employee's last regular service ratings. Within the quarter, the employee shall be furloughed in the order of seniority, unless a labor agreement covering the employees to be furloughed exists in which case the terms of the labor agreement regarding a furlough procedure shall be controlling.

(ii) The appointing authority may limit the application of this subparagraph in any particular instance to employees who are in:

(A) the same class, classification series or other grouping of employees as referred to in an applicable labor agreement; and

(B) the same department or agency within the same bureau or division with headquarters at a particular municipality, county or district of the Commonwealth.

(b) Rights of furloughed employees.--

(1) A furloughed employee shall have the right of return to a class and civil service status which was held prior to the furlough, provided the class is contained in the current classification plan of the agency.

(2) A furloughed employee shall have the right of return to a class and civil service status in the same or lower grade held prior to the furlough, provided the employee meets

the minimum qualifications given in the classification plan of the agency.

(c) Report of furloughed employees.--The following apply:

(1) The appointing authority shall promptly report to the Office of Administration the names of employees furloughed, together with the date the furlough of each employee is effective, and the character of the employee's service.

(2) A regular employee furloughed shall, for a period of one year, be given preference for reemployment in the same class of positions from which furloughed and shall be eligible for appointment to a position of a similar class in other agencies under this part unless the terms of an existing labor agreement preclude the employee from receiving the preferential treatment contained in this paragraph, in which event the terms of the labor agreement shall control.

§ 2603. Suspension.

(a) Right to suspend.--The following apply:

(1) An appointing authority may, for disciplinary purposes, suspend without pay an employee holding a position in the classified service.

(2) Suspensions, including suspensions pending internal investigation, may not exceed 60 working days in one calendar year.

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

(b) Discrimination prohibited.--No individual may be suspended because of race, gender, religion, disability or political, partisan or labor union affiliation or any other nonmerit factor.

(c) Good cause.--Employees may only be suspended for good cause.

(d) Report of suspension.--An appointing authority shall immediately report in writing to the Office of Administration a suspension, together with the reason or reasons for the suspension, and shall send a copy of the report to the suspended employee.

§ 2604. Removal during probationary period.

(a) General rule.--The appointing authority may remove an employee from the classified service before the expiration of the probationary period.

(b) Permanent separation.--An individual removed shall be considered permanently separated from the individual's position. The Office of Administration may, if the action is appropriate, place the name of the individual removed on the employment list of the appropriate class for future certification to other appointing authorities.

§ 2605. Rights of promoted employee during probationary period.

(a) General rule.--An employee serving a probationary period which has resulted from a promotion may be removed from the classified service only for just cause.

(b) Voluntary return to previous position.--

(1) During the first three months of the probationary period, the employee has the option to return to the position previously held.

(2) After three months, an employee in probationary status may return to the previous position or classification with written consent of the appointing authorities.

(c) Appointment to previous position.--If the employee's performance during the probationary period is not determined to be satisfactory by the appointing authority, the employee



shall be returned to the position or class held immediately prior to the promotion without necessity of appeal or hearing.

§ 2606. Resignation.

(a) Form and reinstatement.--

(1) An employee may resign from the classified service either verbally or in writing.

(2) Upon the request of an appointing authority, an employee may be reinstated in the classification from which the employee resigned.

(b) Acceptance of resignation.--Resignation of an individual in the classified service shall not be effective unless accepted by the appointing authority in writing within 15 calendar days after the date the individual tenders resignation.

(c) Resignation prohibited.--No individual about to be appointed to a position in the classified service shall, in advance of or at the time of the appointment, sign or execute a resignation, whether dated or undated.

§ 2607. Removal.

No regular employee in the classified service may be removed, except for just cause.

§ 2608. Leave of absence.

(a) Right of return.--If there is a vacancy with the same appointing authority, an employee who has been granted a leave of absence at the discretion of an appointing authority shall, upon expiration of the leave of absence, have the right of return to any of the following:

(1) the class and civil service status from which leave was granted;

(2) a class and civil service status that the employee previously held, if the class is contained in the current class plan of the agency; or

(3) a class and civil service status in the same or lower grade, if the employee meets the minimum qualifications given in the classification plan of the agency.

(b) No vacancy upon return.--If there is no vacancy to which the employee on leave can be returned, the employee shall retain priority of return to the class from which the leave of absence was granted for a period of one year following the date of expiration of the leave, and, during that time period, the employee shall have precedence for employment over employees furloughed from the same class.

§ 2609. Seniority.

(a) General rule.--Seniority is established for the classified service, classification series and for each class, unless there is in existence a labor agreement covering the position in the classified service, in which case the definition of seniority in the labor agreement shall control.

(b) Calculation of seniority.--

(1) Seniority for the classified service begins with the date of first civil service employment in a civil service class and includes periods of subsequent employment in any civil service class, providing the employment has been on a continuous basis.

(2) Seniority for a classification series begins with the date of first civil service employment in the class series and includes periods of employment in classes within the series during any period while employed on a continuous basis in the classified service.

(3) Seniority in each class begins with the date of first civil service employment in that class and includes periods of subsequent employment in that class during any

period while employed on a continuous basis in the classified service.

(c) Consideration of furlough and leave of absence.--Periods of furlough and approved leave of absence without pay shall be deemed continuous employment for seniority purposes, except that the period of furlough or leave of absence without pay shall not be counted toward seniority.

#### CHAPTER 27

#### PROHIBITIONS, PENALTIES AND ENFORCEMENT

Sec.

2701. Periodic audits of employees by Office of Administration.

2702. False statements made under oath and concealing information.

2703. Misdemeanors.

2704. Prohibition of discrimination.

2705. Political activity.

2706. Removal and disqualification of officers and employees.

§ 2701. Periodic audits of employees by Office of Administration.

The Office of Administration shall conduct audits of changes in employment and promotions of employees in the departments, bureaus and agencies under its jurisdiction to ensure strict compliance with this part.

§ 2702. False statements made under oath and concealing information.

(a) Perjury.--An individual who makes a false statement under oath on an application or other paper filed with the Office of Administration, in an investigation conducted by or under the direction of the Office of Administration or in proceedings arising under this chapter, commits perjury and shall be punished under the provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

(b) Concealing information.--An individual who intentionally fails to disclose a material fact or in any manner conceals information in order to obtain employment or promotion under this part shall, in addition to any other penalty provided by law, 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.

§ 2703. Misdemeanors.

An individual who, alone or in collusion with one or more other individuals, willfully performs any of the following commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$3,000 for each offense or to imprisonment for not more than three years, or both:

(1) Defeats, deceives or obstructs an individual with respect to the individual's right of examination, appointment or employment in accordance with this part.

(2) Corruptly or falsely marks, rates, grades, estimates or reports upon the tests or proper standing of an individual tested or certified under this part, or aids in doing so.

(3) Willfully makes false representations concerning tests, standings or individuals tested.

(4) Willfully furnishes to an individual special or secret information for the purpose of improving or injuring the prospects or chances of an individual examined or certified or of an individual who will be examined or certified.

(5) Impersonates an individual or permits or aids in any manner another individual to impersonate him or her in

connection with an examination or request to be examined, certified or appointed.

(6) Furnishes false information about the individual or another individual in connection with a request to be examined, certified or appointed.

(7) Makes an appointment to office or selects an individual for employment contrary to this part.

(8) Refuses to comply with the provisions of this part.

(9) Willfully or through culpable negligence violates the provisions of this part or rules made under this part.  
§ 2704. Prohibition of discrimination.

An officer or employee of the Commonwealth may not discriminate against an individual in recruitment, examination, appointment, training, promotion, retention or any other personnel action with respect to the classified service because of race, gender, religion, disability or political, partisan or labor union affiliation or other nonmerit factors.

§ 2705. Political activity.

(a) General rule.--An individual in the classified service may not use the individual's official authority or influence for the purpose of interfering with or affecting the result of an election.

(b) Political activities prohibited.--An individual in the classified service may not take an active part in political management or in a political campaign. Activities prohibited by this subsection include the following:

(1) Serving as an officer of a political party, a member of a national, State or local committee of a political party or an officer or member of a committee of a partisan political club, or being a candidate for any of these positions.

(2) Organizing or reorganizing a political party organization or political club.

(3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing or accounting for assessments, contributions or other money for a partisan political purpose.

(4) Organizing, selling tickets to, promoting or actively participating in a fundraising activity of a candidate in a partisan election or a political party or political club.

(5) Taking an active part in managing the political campaign of a candidate for public office in a partisan election or a candidate for political party office.

(6) Becoming a candidate or campaigning for an elective public office in a partisan election.

(7) Soliciting votes in support of or in opposition to a candidate for public office in a partisan election or a candidate for political party office.

(8) Acting as recorder, watcher, challenger or similar officer at the polls on behalf of a political party or a candidate in a partisan election.

(9) Driving voters to the polls on behalf of a political party or a candidate in a partisan election.

(10) Endorsing or opposing a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, broadcast, campaign, literature or similar material.

(11) Serving as a delegate, alternate or proxy to a political party convention.

(12) Addressing a convention, caucus, rally or similar gathering of a political party in support of or in opposition

to a partisan candidate for public office or political party office.

(13) Initiating or circulating a partisan nominating petition.

(14) Soliciting, paying, collecting or receiving a contribution at or in the workplace from an employee for a political party, political fund or other partisan recipient.

(15) Paying a contribution in the workplace to an employee who is the employer or employing authority of the individual making the contribution for a political party, political fund or other partisan recipient.

(c) Rights.--An employee or individual to whom subsection (a) or (b) applies shall retain the right to and may engage in the following activities:

(1) Register and vote in an election.

(2) Express an opinion as an individual privately and publicly on political subjects and candidates.

(3) Display a political picture, sticker, badge or button when not on duty and at locations other than the workplace.

(4) Participate in the nonpartisan activities of a civic, community, social, labor or professional organization, or a similar organization.

(5) Be a member of a political party or other political organization or club and participate in the organization's or club's activities to the extent consistent with this section.

(6) Attend a political convention, rally, fundraising function or other political gathering.

(7) Sign a political petition as an individual.

(8) Make a financial contribution to a political party or organization.

(9) Be politically active in connection with a question that is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or other question or issue of similar character.

(10) Otherwise participate fully in public affairs, except as prohibited by law, in a manner that does not materially compromise efficiency or integrity as an employee or the neutrality, efficiency or integrity of a Commonwealth agency.

(d) School director.--Notwithstanding any provision of this section or any other law to the contrary, no individual may be deemed ineligible for the office of school director solely on the basis that the individual is a member of the classified service under this part.

(e) Further prohibition or limitation.--The provisions of subsection (c) do not authorize an employee to engage in political activity while on duty or while in a uniform which identifies the individual as an employee. The head of an agency may prohibit or limit the participation of an employee or class of employees of the agency in an activity permitted under subsection (c) if participation in the activity will interfere with the efficient performance of official duties or create a conflict or apparent conflict of interests.

(f) Penalty.--An individual in the classified service who violates this section shall be removed from employment and money appropriated for the position from which the employee was removed may not be used to pay the employee or individual, 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 termination.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Agency." An agency employing individuals in the classified service.

"Contribution." A gift, subscription, loan, advance, deposit of money, allotment of money or anything of value given or transferred by one individual to another, including cash, check, draft, payroll deduction, allotment plan or by pledge or promise, whether or not enforceable.

"Election." A primary, municipal, special and general election.

"Employee." An individual in the classified service.

"Employer" or "employing authority." The immediate employing agency head, agency principals or an employee's supervisor.

"Partisan." When used as an adjective, the term refers to a political party.

"Political fund." A fund, organization, political action committee or other entity that, for purposes of influencing the outcome of a partisan election, receives or expends money or anything of value, or transfers money or anything of value to another fund, political party, candidate, organization, political action committee or any other entity.

§ 2706. Removal and disqualification of officers and employees.

(a) General rule.--Except as otherwise provided in section 2705 (relating to political activity), an individual holding a position in the classified service who intentionally violates the provisions of this chapter shall be immediately separated from the service.

(b) Duty of appointing authority.--The appointing authority of the State agency in which the offending individual is employed shall remove the individual at once in accordance with the provisions of this part.

(c) Ineligibility after removal.--An individual removed under this section shall be ineligible for reappointment to a position in the classified service for a period of time to be determined by the Office of Administration.

#### CHAPTER 28

#### NOTICE OF PERSONNEL ACTIONS

Sec.

2801. Notice.

§ 2801. Notice.

(a) Notice.--Written notice of a personnel action taken under this part shall be provided to the affected employee.

(b) Time limit for notice.--The notice shall be furnished within the time limit prescribed by the Office of Administration. Copies of the notice shall be provided to the Office of Administration upon request.

(c) Contents of notice.--The notice shall, in the case of permanent separation, suspension for cause or involuntary demotion of a regular employee, set forth the reasons for the action. The notice shall also provide the affected employee information on the employee's right to appeal the personnel action to the commission.

#### CHAPTER 29

#### SERVICES AVAILABLE, COSTS AND FUNDING

Sec.

2901. Service and cooperation.

2902. Receiving money and allocating or apportioning costs.

2903. Existing approved counties.

§ 2901. Service and cooperation.

(a) General rule.--The services and facilities utilized by the Office of Administration and its staff to implement this chapter shall be available to departments, boards, commissions, agencies and political subdivisions of this Commonwealth.

(b) Costs.--The following shall apply:

(1) The cost of the services and facilities made available by the Office of Administration under subsection (a) shall be paid proportionally by the department, board, commission, agency or political subdivision to which the services and facilities are made available.

(2) The Office of Administration shall prepare and issue semiannual statements of costs under this section, setting forth the total cost and the share attributable to each department, board, commission, agency or political subdivision to which services or facilities are made available. Upon receipt of a statement, each department, board, commission, agency and political subdivision shall pay its share of the cost to the Office of Administration.

(c) Obligation.--The following shall apply:

(1) Money payable to the Office of Administration under subsection (b) shall be:

(i) deposited into the General Fund;

(ii) credited to the annual appropriation made to the Office of Administration out of the General Fund for the proper conduct of its work under this chapter; and

(iii) made available for the same purposes for which an appropriation is available.

(2) If a department, board, commission or agency of this Commonwealth that is supported with money from the General Fund becomes liable to the Office of Administration under this section, the liability shall be reimbursed out of the current appropriation to the department, board, commission or agency, and an appropriation is appropriated for that purpose.

(3) As much money as may be necessary is appropriated to the Office of Administration from:

(i) The State Stores Fund to meet the cost of the services and facilities of the Office of Administration as may be attributable to the work of the Office of Administration with respect to the Pennsylvania Liquor Control Board; and

(ii) the Administration Fund to meet the cost of services and facilities of the Office of Administration as may be attributable to the work of the Office of Administration with respect to the work of the Department of Labor and Industry under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law .

(4) In the event any other department, board, commission or agency of the Commonwealth that is supported out of a special fund becomes obligated to the Office of Administration under the provisions of this section, as much money as may be necessary is appropriated out of the special fund to meet the cost of services and facilities of the Office of Administration as may be attributable to the work of the administrative department, board, commission or agency. The amounts that are appropriated out of the special funds shall be transferred from the funds to the General Fund, shall be credited to the current appropriation made to the Office of Administration out of the General Fund and are appropriated to the Office of Administration for the

same purposes as the appropriation out of the General Fund is appropriated under this section.

§ 2902. Receiving money and allocating or apportioning costs.

The Office of Administration shall have the authority to receive money from the Federal Government, an agency of the Federal Government or any other source for the administration of this part. The Office of Administration and the Secretary of the Budget shall have the power to allocate among the departments and agencies the cost of administering this part.

§ 2903. Existing approved counties.

Counties that have been approved for a county-developed and administered merit-based system of employment and personnel administration by one or more State agencies may continue to utilize the approved system.

#### CHAPTER 30

#### STATE CIVIL SERVICE COMMISSION AND DIRECTOR

Sec.

3001. State Civil Service Commission.

3002. Meetings of commission.

3003. Duties of commission.

3004. Legal counsel.

3005. Qualifications, appointment and compensation of director.

3006. Powers and duties of director.

3007. Cooperation by officers and employees of the Commonwealth.

3008. Periodic audits of employees by commission.

§ 3001. State Civil Service Commission.

(a) Organization of commission.--The commission shall consist of three full-time members, not more than two of whom shall be of the same political affiliation, appointed by the Governor with the advice and consent of a majority of the members elected to the Senate.

(b) Term.--Each appointment shall be for a term of six years. The members of the commission shall hold no other public position to which a salary is attached.

(c) Chair.--The Governor shall designate one of the members of the commission as chair.

(d) Prohibitions.--Commission members shall not hold an office or position if the duties of the office or position are incompatible with the member's official duties.

(e) Veteran requirement.--At least one member of the commission shall be a veteran.

(f) Salary.--The chair of the commission shall receive an annual salary of \$89,000. Every other commissioner shall receive an annual salary of \$85,000.

(g) Increases and expenses.--The commissioners shall receive annual cost-of-living increases under section 3(e) of the act of September 30, 1983 (P.L.160, No.39), known as the Public Official Compensation Law. Each commissioner shall be entitled to receive actual traveling expenses.

(h) Eligibility.--The following shall apply:

(1) An individual appointed as a member of the commission shall be:

(i) A citizen and legal resident of this Commonwealth for a period of not less than one year.

(ii) Familiar with modern personnel methods and the application of merit principles to public employment.

(2) An individual who does any of the following shall not be eligible to serve as a commissioner:

(i) holds or campaigns for any other public office;

(ii) holds office in a political party or political committee;

(iii) actively participates in or contributes to a political campaign;

(iv) directly or indirectly attempts to influence a decision by a governmental body other than a court of law or as a representative of the commission on a matter within the jurisdiction of the commission; or

(v) is employed by the Commonwealth or a political subdivision in any other capacity whether or not for compensation.

(3) The Governor may remove a member of the commission for incompetence, inefficiency, neglect of duty, malfeasance or misfeasance in office by giving the member a statement in writing of the charges against the member and affording the member, after notice of not less than 10 days, an opportunity to make a written answer and, upon request, to be publicly heard in person and by counsel. A copy of the charges and answer of the Governor's findings and a transcript of the record shall be filed with the director.

#### § 3002. Meetings of commission.

(a) Meetings.--The commission shall meet at least once each month. Meetings may be canceled with appropriate public notice.

(b) Notice of meetings.--The chair of the commission shall cause reasonable notice to be given to each member of the commission and to the director of the time and place of each meeting.

(c) Call to meeting.--Meetings shall be held at the call of the chair, the Governor or any member of the commission.

(d) Quorum.--Two members of the commission shall constitute a quorum at a meeting.

#### § 3003. Duties of commission.

It shall be the duty of the commission:

(1) After public hearing, as specified under this chapter, to promulgate regulations either on the motion of the commission or upon recommendation of the director for effectuating the provisions of this chapter.

(2) Upon request or on the motion of the commission as provided under this section, in cases of demotion, furlough, suspension and removal, to hold public hearings, render decisions on appeals and record the commission's findings and conclusions.

(3) To make investigations as may be requested by the Governor or the General Assembly and to report on the investigations.

(4) To report by June 1 of each year to the General Assembly on all complaints, grievances and cases arising from questions by veterans about the application of and the results attained by use of the veterans' preference provisions of this chapter with regard to hiring, promotion and firing of employees covered by this chapter.

(5) Upon its own motion and subject to the specific terms and conditions imposed under this part, to delegate authority to the director to promote the efficient and effective performance of the administrative duties of the commission.

(6) From money appropriated for the operation of the commission, to enter into cooperative agreements with departments, boards, commissions and other agencies of the Commonwealth to provide services, including budget preparation, fiscal oversight, human resources and personnel services, technology services, procurement, courier and mailing and other services. Notwithstanding 62 Pa.C.S. (relating to procurement), the commission may use the



Department of General Services as its purchasing agency. The commission shall retain authority over commission work under the cooperative agreement.

(7) To conduct hearings as follows:

(i) A regular employee in the classified service may, within 20 calendar days of receipt of notice from the appointing authority, appeal in writing to the commission a permanent separation, suspension for cause, furlough or demotion on the grounds that the action has been taken in the employee's case in violation of the provisions of this part. Upon receipt of the notice of appeal, the commission shall promptly schedule and hold a public hearing.

(ii) A person who is aggrieved by an alleged violation of section 2704 (relating to prohibition of discrimination) may appeal in writing to the commission within 20 calendar days of the alleged violation. Upon receipt of the notice of appeal, the commission shall promptly schedule and hold a public hearing.

(iii) Final decisions of the commission shall be reviewable in accordance with the laws of this Commonwealth.

(8) To provide remedies as follows:

(i) Within 90 days after the conclusion of the hearing described under paragraph (7), the commission shall report the commission's findings and conclusions to the parties directly involved in the action.

(ii) If the decision is in favor of the employee or the aggrieved person, the commission shall make an order as the commission deems appropriate to assure the rights accorded the individual under this part.

(iii) If an employee is removed, furloughed, suspended or demoted, the commission may modify or set aside the action of the appointing authority. If appropriate, the commission may order reinstatement, with the payment of the portion of the salary or wages lost, including employee benefits, as the commission may in its discretion award.

#### § 3004. Legal counsel.

In accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the commission shall appoint and direct attorneys as needed in the performance of the commission's duties required under this part.

#### § 3005. Qualifications, appointment and compensation of director.

(a) General rule.--The director shall be an individual who is familiar with the principles and methods of personnel administration and the application of merit principles and scientific methods to public employment.

(b) Appointment.--The director shall be appointed by the commission and serve at the pleasure of the commissioners.

(c) Salary.--The director's salary shall be fixed by the commission with the approval of the Governor. The director shall hold no other paid public position.

#### § 3006. Powers and duties of director.

Under the direction and supervision of the commission, the director, except as otherwise provided in this part, shall direct and supervise the administrative work of the commission. The director shall have the power and duty to:

(1) Appoint staff to classified service positions as may be necessary to carry out this chapter and Chapter 31

(relating to hearings and records) and to supervise and direct this work.

(2) Attend the meetings of the commission.

(3) Prepare and recommend to the commission regulations and amendments to regulations.

(4) Administer the provisions of this chapter and Chapter 31 and of the regulations made under this chapter and Chapter 31.

(5) Investigate the effect of the administration of this chapter and Chapter 31 and of the regulations made under this chapter and Chapter 31 and to report the findings and recommendations to the commission.

(6) Make a report in writing, not later than November 1 of each year, concerning the administrative and legal work performed by the commission during the preceding fiscal year.

(7) Perform an act required under this chapter and Chapter 31 or regulations made under this chapter and Chapter 31 or directed by the commission.

(8) Request assistance from the attorneys appointed under section 3004 (relating to legal counsel) as may be necessary in the performance of the director's administrative duties.

(9) Advertise on the commission's publicly accessible Internet website and in all commission announcements and advertisements that veterans' preference is the law of this Commonwealth and that, to determine standing on all certified eligible lists, an additional 10 points shall be applied to the final examination score obtained by a veteran in accordance with 51 Pa.C.S. § 7103 (relating to additional points in grading civil service examinations), and the same preferential rating given to veterans under this part shall be extended to include spouses in accordance with 51 Pa.C.S. § 7108 (relating to preference of spouses).

§ 3007. Cooperation by officers and employees of the Commonwealth.

Upon the written request of the director, all officers and employees in the service of the Commonwealth shall, during usual business hours, furnish to the commission the facilities, assistance and information as the commission may require in carrying out its functions.

§ 3008. Periodic audits of employees by commission.

The commission shall conduct audits of appointments, changes in employment and promotions of employees in the classified service to ensure strict compliance with this part and regulations promulgated by the Office of Administration under this part.

## CHAPTER 31 HEARINGS AND RECORDS

Sec.

3101. Public hearings.

3102. Oaths, testimony and production of papers.

3103. Records open to public.

3104. False statements made under oath constitute perjury.

§ 3101. Public hearings.

(a) Public hearing.--The commission shall hold a public hearing at which any citizen shall have the right to appear and be heard before submitting proposed regulations under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, or adopting or amending the rules of the commission.

(b) Notice of hearing.--Public notice of the public hearing shall be given in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings) and, at least seven days in advance of the

hearing, by posting on a bulletin board maintained in or near the commission's principal office, in a place accessible to the public during business hours, a statement of the time and place of the hearing and of the matter to be considered. The commission shall also furnish at least 20 copies of the notice to the newspaper correspondents' office in the State Capitol and one copy of the notice to the Governor, each appointing authority and each member of the General Assembly. The commission may give further public notice of the hearings as it deems advisable.

§ 3102. Oaths, testimony and production of papers.

(a) Administration of oaths.--Each member of the commission, the director and any other employee or agent authorized by the commission shall have the power to administer oaths in matters pertaining to the work of the commission.

(b) Subpoenas.--The commission shall have the power to secure by subpoena the attendance and testimony of witnesses and the production of books and papers.

(c) Authority of court.--A judge of a court of record shall, upon proper application of the commission, compel the attendance of witnesses, the production of books and papers and the giving of testimony before the commission by attachment for contempt, or otherwise, in the same manner as the production of evidence may be compelled before the court.

§ 3103. Records open to public.

(a) General rule.--The minutes of the commission shall be preserved as permanent records. Correspondence, other papers and records of the commission shall be maintained for periods established in the commission's records retention schedule, which may, upon publication of notice in the Pennsylvania Bulletin, be changed at the discretion of the commission to meet the criteria and needs of the commission.

(b) Electronic records.--The commission and the director, in their deliberations, may rely on computerized or electronically or mechanically reproduced records.

(c) Records to be public.--On written request, supported by justification acceptable to the director and subject to reasonable regulation, all records of the commission shall be open to public inspection during ordinary business hours except as otherwise provided for under this chapter.

§ 3104. False statements made under oath constitute perjury.

(a) Offense defined.--A false statement made under oath in an application or other paper filed with the commission, in an investigation conducted by or under the direction of the commission or in proceedings arising under this part, shall be perjury and punishable under the provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

(b) Penalty.--An individual intentionally failing to disclose a material fact or in any manner concealing information in order to obtain employment or promotion under this part shall, in addition to any other penalty provided in this chapter, 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.

## CHAPTER 32

### COMMISSION FUNDS, COSTS AND SERVICE

Sec.

3201. Receiving money and allocating or apportioning costs.

3202. Service and cooperation.

§ 3201. Receiving money and allocating or apportioning costs.

(a) Receipt.--The commission may receive money from the Federal Government or an agency of the Federal Government or

from any other source for the administration of this part. The commission and the Secretary of the Budget shall allocate among the departments and agencies under this part the cost of administering this part.

(b) Transfer.--On the effective date of this section, the Secretary of the Budget shall, if necessary, transfer money to the Office of Administration in the amount necessary to support the transfer of duties.

§ 3202. Service and cooperation.

(a) General rule.--The services and facilities of the commission and its staff shall be available to departments, boards, commissions, agencies and political subdivisions of this Commonwealth.

(b) Costs.--

(1) The cost of the services and facilities made available by the commission shall be paid by the department, board, commission, agency and political subdivision to which the services and facilities are made available, in the proportion that the cost of the services and facilities bears to the total cost of the services and facilities.

(2) The commission shall prepare and issue semiannual statements of the cost, which shall be reviewed and approved by the Office of the Budget, providing the total cost and the share attributable to each department, board, commission, agency and political subdivision to which services or facilities are made available. Upon receipt of the statements, each department, board, commission, agency and political subdivision shall pay its share of the cost to the commission.

(c) Obligation.--

(1) Money payable to the commission, by way of reimbursement, shall be paid into the General Fund, shall be credited to the annual appropriation made to the commission out of the General Fund for the proper conduct of its work under this part and shall be available for the same purposes for which an appropriation is available.

(2) If a department, board, commission or agency which is supported out of the General Fund becomes liable to the commission under the provisions of this section, the liability shall be defrayed out of the current appropriation to the department, board, commission or agency for the proper conduct of its work, and an appropriation is appropriated for that purpose.

(3) As much money as may be necessary is appropriated to the commission from The State Stores Fund to meet the cost of the services and facilities of the commission as may be attributable to the work of the commission, with respect to the Pennsylvania Liquor Control Board.

(4) As much money as may be necessary is appropriated to the commission from the Administration Fund to meet the cost of services and facilities of the commission as may be attributable to the work of the commission with respect to the work of the Department of Labor and Industry under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

(5) In the event any other department, board, commission or agency, which is supported out of a special fund, becomes obligated to the commission under the provisions of this section, as much money as may be necessary is appropriated out of the special fund to meet the cost of services and facilities of the commission as may be attributable to the work of the department, board, commission or agency. The

amounts that are appropriated out of the special funds shall be transferred from the funds to the General Fund, shall be credited to the current appropriation made to the commission out of the General Fund for the proper conduct of its work and are appropriated to the commission for the same purposes as the appropriation out of the General Fund is appropriated under this section.

CHAPTER 33  
RECORDS, STATUS AND APPROPRIATIONS

Sec.

3301. Transfer of records.

3302. Status of certain employees.

3303. Veterans' preference.

3304. Audits of application of veterans' preference.

§ 3301. Transfer of records.

(a) Transfer.--The following, which are in effect on the effective date of this section, shall be transferred from the commission to the Office of Administration on the effective date of this section:

(1) Each eligible list previously established or certified.

(2) All books, records and documents in paper and electronic form and format.

(3) All supplies, materials, equipment and computer hardware and software relating to or used in connection with a merit system in the service of the Commonwealth.

(b) Eligible list.--

(1) Each eligible list shall be used for appointments by the Office of Administration in the same manner as provided in this part until examinations have been selected or conducted by the Office of Administration and new eligible lists have been prepared.

(2) Individuals whose names remain on an existing eligible list shall be retained on the eligible list for at least 180 days from the date the eligible list was established until the eligible list is replaced by a more recently prepared eligible list.

(3) If applications have been filed for examinations or examinations have been held, but no eligible list established in connection with a merit system in the service of the Commonwealth is in effect on the effective date of this section, the applications and examinations transferred to the Office of Administration shall have the same force and effect as if the applications had been filed or the examinations had been held by the Office of Administration.

§ 3302. Status of certain employees.

An individual occupying a position in the classified service which, on the day preceding the effective date of this section, was under a type of merit system, including a merit system by virtue of the Civil Service Act, shall be accorded the status the individual held on that date. Nothing in this part shall be construed to remove from the classified service any position which was in the classified service in the service of this Commonwealth immediately prior to the effective date of this section.

§ 3303. Veterans' preference.

Nothing in this part shall be construed to repeal or supersede the provisions of 51 Pa.C.S. Pt. V (relating to employment preferences and pensions).

§ 3304. Audits of application of veterans' preference.

The commission shall conduct audits of appointments and changes in employment in the classified service to ensure strict

**compliance with 51 Pa.C.S. Pt. V (relating to employment preferences and pensions).**

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraphs (2) and (3) are necessary to effectuate the addition of 71 Pa.C.S. Pt. III.

(2) Section 1312(a) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

(3) The act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, is repealed.

(4) All acts and parts of acts are repealed insofar as they are inconsistent with the addition of 71 Pa.C.S. Pt. III.

Section 3. The addition of 71 Pa.C.S. Pt. III is a continuation of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act. The following apply:

(1) Except as otherwise provided in 71 Pa.C.S. Pt. III, all activities initiated under the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, shall continue and remain in full force and effect and may be completed under 71 Pa.C.S. Pt. III. Orders, regulations, rules and decisions which were made under the Civil Service Act and which are in effect on the effective date of section 2(3) of this act shall remain in full force and effect until revoked, vacated or modified under 71 Pa.C.S. Pt. III. Contracts, obligations and collective bargaining agreements entered into under the Civil Service Act are not affected nor impaired by the repeal of the Civil Service Act.

(1.1) Each position given civil service status under the Civil Service Act or any other act shall not be affected nor impaired by the repeal of the Civil Service Act and the addition of 71 Pa.C.S. Pt. III.

(2) Except as set forth in paragraph (3), any difference in language between 71 Pa.C.S. Pt. III and the Civil Service Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Civil Service Act.

(3) Paragraph (2) does not apply to the addition of the following:

(i) The addition of the definitions of "job," "job title" and "board" under 71 Pa.C.S. § 2103.

(ii) The authority of the Office of Administration to issue regulations, including temporary regulations, under 71 Pa.C.S. § 2203.

(iii) The administration of merit system employment by the Office of Administration under 71 Pa.C.S. Chs. 22, 23, 24, 25, 26, 27, 28 and 29.

(iv) 71 Pa.C.S. Chs. 32 and 33.

(v) The transfer of records under 71 Pa.C.S. § 3301.

Section 4. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) This section.

(ii) The addition of 71 Pa.C.S. §§ 2203(b) and 3301.

(2) The remainder of this act shall take effect in nine months.

