

CHAPTER 602a. APPOINTMENTS AND PROMOTIONS IN THE CLASSIFIED SERVICE

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Authority

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Source

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Subchapter A. RESIDENCY REQUIREMENT

Sec. 602a.1. Residency requirement.

§ 602a.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:

(i) 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 and maintains a current Pennsylvania mailing address.

(ii) An applicant who is attending a college, university or technical school located within this Commonwealth, is currently living in this Commonwealth and maintains a current Pennsylvania mailing address.

(2) *Members of the armed forces and their spouses.* An applicant who is a current active-duty member of the United States Armed Forces, or who is the spouse of a current active-duty member of the United States Armed Forces, 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, and they or their spouse are scheduled to be discharged within 90 days of submitting their application to the Office of Administration.

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

(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 (24 P.S. §§ 13-1327 and 13-1327.1), within 5 years of applying for a position in the classified service.

(2) 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 and graduated from a postsecondary institution in this Commonwealth within 5 years of applying for a position in the classified service.

(d) *Counties and administrative districts.*

(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 or other administrative district 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 or other administrative district 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 administrative districts or of this Commonwealth, as deemed appropriate by the Office of Administration.

(3) If an eligible changes residence from one county or administrative district to another county or administrative district 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.
602a.2. Recruitment methods.
602a.3. Selective criteria.

§ 602a.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.* In accordance with the act and § 604a.5(h) (relating to furlough), 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.

§ 602a.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 using the form prescribed by the Office of Administration.

Cross References

This section cited in 4 Pa. Code § 602a.6 (relating to evaluation of applications).

Subchapter C. VACANCY POSTINGS AND APPLICATION PROCESS

Sec.

- 602a.4. Vacancy postings.
- 602a.5. Application requirements.
- 602a.6. Evaluation of applications.
- 602a.7. Audit of applications.

§ 602a.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 salary range or hourly rate of pay.
- (6) The position(s) type(s).
- (7) The location of the position(s).
- (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) 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.

(14) 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.

§ 602a.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.

(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.

§ 602a.6. Evaluation of applications.

(a) *Evaluations.* Consistent with §§ 601a.12 and 602a.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.

§ 602a.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.

- 602a.8. Selection of examination method.
- 602a.9. Development of examinations.
- 602a.10. Administration of examinations.
- 602a.11. Promotion examinations.
- 602a.12. Prohibited conduct in examinations.
- 602a.13. Scoring of examinations.
- 602a.14. Examination analysis and alternatives.

§ 602a.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.

§ 602a.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.

§ 602a.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 if any of the following occur:

(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.

(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 under 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.

§ 602a.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 jobs 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.

§ 602a.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.

§ 602a.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.

(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 if any of the following occur:

(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.

(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 under a settlement agreement.

§ 602a.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.

602a.15. Creation of eligible lists.

602a.16. Duration of eligible lists.

602a.17. Amendment of eligible lists.

602a.18. Replacement and integration of eligible lists.

602a.19. Cancellation of eligible lists.

§ 602a.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.

§ 602a.16. Duration of eligible lists.

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

§ 602a.17. Amendment of eligible lists.

(a) *Amendments permitted.* The Office of Administration may amend an eligible list to correct a clerical error; to correct an eligible's score; to indicate a change in veteran status; to add or remove a name; or to suspend or change an applicant's eligibility for certification, appointment or promotion.

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

§ 602a.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.

§ 602a.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 607a (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.

602a.20. Request for certification.

602a.21. Content of certification.

602a.22. Duration of certification.

602a.23. Refusal to certify; removal from certification.

§ 602a.20. Request for certification.

(a) *Generally.* Upon the request of an appointing authority, the Office of Administration will certify from the appropriate eligible list(s) as many eligibles who have applied for the vacancy 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.

§ 602a.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 § 601a.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 § 601a.5(c) (relating to age preference), certified eligible lists issued to the Department of Aging will indicate each eligible's age preference status.

§ 602a.22. Duration of certification.

A certified eligible list shall be valid for 90 business days after the date of certification, unless extended or limited by the Office of Administration to serve the best interests of the classified service.

§ 602a.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.

(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 under a settlement agreement.

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

Sec.

602a.24. Rule of three and alternate rule.

602a.25. Assessment of eligibles.

602a.26. Removal of eligible from eligible list.

602a.27. Prohibition against securing withdrawal from competition.

§ 602a.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 system 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.

§ 602a.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.

§ 602a.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 system 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.

§ 602a.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 Administra-

tion 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.

- 602a.28. Referral of applicants.
- 602a.29. Reassignment.
- 602a.30. Transfer.
- 602a.31. Voluntary demotion.
- 602a.32. Reinstatement.
- 602a.33. Promotion.
- 602a.34. Assessment of referred applicants.
- 602a.35. Prohibition against securing withdrawal from competition.

§ 602a.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 eligible 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 if any of the following occur:

- (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.
- (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 under a settlement agreement.

§ 602a.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.* Whether a job classification constitutes a similar job classification for purposes of subsection (a) will be determined by the Office of Administration on a case by case basis. In determining whether job classifications are similar, the Office of Administration will consider whether the job classifications have the same maximum hourly salary rate in the compensation plan, and whether the job classifications require comparable minimum qualifications.

§ 602a.30. Transfer.

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.

§ 602a.31. Voluntary demotion.

An employee in the merit system 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.

Cross References

This section cited in 4 Pa. Code § 604a.11 (relating to break in service).

§ 602a.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.

§ 602a.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 Commonwealth employee of an appointing authority who appears on an appropriate employment list and who meets eligibility criteria as established by the Office of Administration.

(4) 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 system 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.

(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 seniority and meritorious service.

(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 1 year 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.

Cross References

This section cited in 4 Pa. Code § 603a.8 (relating to probationary period of interns).

§ 602a.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.

§ 602a.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.
602a.36. Emergency appointments.

§ 602a.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 business 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 business days.

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