

PROPOSED RULEMAKING

OFFICE OF ADMINISTRATION

[4 PA. CODE CHS. 601a—607a AND 608—615]

Civil Service Reform

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

Statutory Authority

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

Purpose of this Proposed Rulemaking

This proposed rulemaking establishes the regulatory structure for administration of the classified service, the Commonwealth's merit system of employment, in accordance with 71 Pa.C.S. Part III, commonly referred to as the Civil Service Reform Act (act), added under the act of June 28, 2018 (P.L. 460, No. 71).

Summary of the Proposed Rulemaking

The Office of Administration promulgated temporary regulations published at 49 Pa.B. 1297 (March 16, 2019), which took effect on March 28, 2019, and expired on March 12, 2022. Thereafter, the Office of Administration promulgated new temporary regulations published at 52 Pa.B. 1454 (March 12, 2022), which took effect on March 12, 2022, and will expire on March 12, 2025. To ensure proper administration of the classified service, the Office of Administration proposes comprehensive permanent regulations addressing application to, and employment in, civil service positions, as well as practice and procedure before the Secretary of Administration.

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

It bears noting that prior to enactment of the act, the State Civil Service Commission was responsible for the

administration of the classified service. To that end, the State Civil Service Commission promulgated various regulations in Subpart A (relating to rules of the Civil Service Commission). On May 18, 2023, the State Civil Service Commission rescinded regulatory provisions that became obsolete upon enactment of the act. These obsolete regulations addressed many of the same topics addressed by the Office of Administration's proposed rulemaking. The State Civil Service Commission's remaining regulations either pertain to its appellate jurisdiction, or are invalid by operation of law and will be reserved by the State Civil Service Commission in the near future. To the extent that the State Civil Service Commission's remaining regulations conflict with this proposed rulemaking, this proposed rulemaking would control. See 71 Pa.C.S. §§ 2201 and 2202 (relating to transfer of duties; and duties of Office of Administration) and 2203.

Chapter 608. General Provisions

General Provisions

Proposed § 608.1 (relating to short title) establishes the short title of Subpart B as the "Civil Service Reform Regulations."

Proposed § 608.2 (relating to purpose) sets forth the purposes of this proposed rulemaking, which is to effectuate civil service reform, as required by the act. Subsection (b) provides that this regulation is to be read in conjunction with the act.

Proposed § 608.3 (relating to definitions) provides definitions of terms used throughout this proposed rulemaking. Definitions set forth in the act are incorporated into proposed § 608.3 by reference. In large part, the definitions contained in proposed § 608.3 are substantively the same as those contained in the Office of Administration's temporary regulation, § 601a.3 (relating to definitions). Of note, the Office of Administration carries forward the definition of "alternate rule" contained in its temporary regulation. Under this definition, an appointing authority is authorized to elect the use of an alternate rule. The term "alternate rule" stems from 71 Pa.C.S. § 2402(b)(2) (relating to selection and appointment of eligibles), which provides, in relevant part, "[i]f the vacant position is to be filled from an eligible list, the appointing authority shall select an individual who is among the three highest-ranking available individuals on the certification of eligibles, *unless the Office of Administration has specified prior to testing the eligibles on the eligible list that either all available individuals regardless of ranking or a specified alternative number other than three of the highest-ranking available individuals shall be used in making selections for the classification.*" (Emphasis added.) Notably, 71 Pa.C.S. § 2402 does not address who has the authority to elect to use an alternate rule; rather, the provision only prohibits the use of an alternate rule unless the Office of Administration notes the use of the alternate rule prior to an examination. In light of this statutory gap and in accordance with its authority under 71 Pa.C.S. § 2202, the Office of Administration has empowered appointing authorities to make the decision regarding use of an alternative rule. The Office of Administration made this decision, as it is logical and appropriate for an appointing authority to have some level of discretion over the size of its applicant pool.

Several minor changes were made to definitions carried forward from the Office of Administration's temporary

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

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

Proposed § 608.4 (relating to veteran’s preference) reaffirms application of veterans’ preference to certain positions within the classified service, in accordance with 51 Pa.C.S. Chapter 71 (relating to veterans’ preference). This proposed rulemaking also clarifies the documentation necessary to establish an applicant’s status as a veteran, surviving spouse or spouse of a disabled veteran in accordance with 51 Pa.C.S. § 7108 (relating to preference of spouses). Specifically, applicants who served and were discharged should submit their DD 214, DD 215, statement of service or other military documentation during the application process. Similarly, applicants currently serving in the guard/reserves should submit their DD 214 or NGB-22 during the application process. Applicants that are completing a tour of active duty and are within 90

days of discharge should submit a projected discharge letter at the time of application. If selected for appointment, they must then submit their DD 214 prior to their start date. Finally, this proposed rulemaking establishes the powers and duties of the Special Advisor for Veterans’ Programs, as required by the act under 71 Pa.C.S. § 2202(a)(12).

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

Proposed § 608.6 (relating to reasonable accommodations) pertains to reasonable accommodations for individuals with disabilities seeking employment in the classified service. The Office of Administration includes this provision in this proposed rulemaking to ensure that individuals with disabilities understand how to request accommodations, and to ensure compliance with Federal and State laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101—12213). Information on submitting requests for accommodations in the application and examination process shall be available on the Office of Administration’s web site at www.employment.pa.gov.

Proposed § 608.7 (relating to service to departments, boards and commissions, agencies and political subdivisions; reimbursement for services) implements 71 Pa.C.S. § 2901 (relating to service and cooperation), which makes the merit employment services of the Office of Administration available to departments, boards, commissions, agencies and political subdivisions of the Commonwealth. This proposed rulemaking also addresses how appointing authorities shall reimburse the Office of Administration for merit employment services. Specifically, under subsection (a), departments, boards, commissions, agencies and political subdivisions of the Commonwealth seeking to use the Office of Administration’s merit system employment services must submit a written request for the same. Thereafter, the parties will enter into a signed agreement for the provision of services. The method for reimbursement for the Office of Administration’s services is set forth in subsection (b). Finally, subsection (c) makes

it clear that personnel actions taken under the written agreement must conform with the act and this proposed rulemaking.

Proposed § 608.8 (relating to electronic records and signatures) relates to electronic records and signatures. This provision allows for the use and acceptance of electronic records, including electronic signatures, provided that these records and signatures conform to sections 301—312 of the Electronic Transactions Act (73 P.S. §§ 2260.301—2260.312) and other laws governing electronic records and signatures.

Chapter 609. Classification System

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

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

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

Proposed § 609.4 (relating to minimum qualifications) addresses the qualifications necessary for application to, or employment in, positions in the classified service. Specifically, under proposed subsection (a), an applicant to a position in the classified service must meet the minimum qualifications for employment in the job classification for which the applicant applied, as set forth in the applicable job specification. Similarly, under proposed subsection (b), an employee employed in the classified service must meet the minimum qualifications for employment in the job classification in which the employee is employed, as set forth in the applicable job specification. The terms "minimum qualifications" and "job specification" are defined in proposed § 608.2. Finally, it should be noted that minimum qualifications for classified service job classifications are established by the Executive

Board, under section 709 of The Administrative Code of 1929. The Office of Administration is required to utilize and enforce these minimum qualifications under 71 Pa.C.S. § 2504.

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

Chapter 610. Appointments and Promotions in the Classified Service

Subchapter A. Residency Requirement

Proposed § 610.1 (relating to residency requirement) implements the Pennsylvania residency requirement for application to a position in the classified service, which is contained in 71 Pa.C.S. § 2301(b). Under 71 Pa.C.S. § 2301(b), applicants to positions in the classified service must be residents of this Commonwealth, as defined in 71 Pa.C.S. § 2301(b), unless the residency requirement is waived due to a lack of qualified applicants. This proposed rulemaking makes clear that the residency requirement does not apply to an individual who was previously a regular employee and who is returned to employment from an approved leave of absence, through mandatory reemployment or through contractual recall or placement rights, since the preference under 71 Pa.C.S. § 2301(b) applies only to individuals applying for a position in the classified service. This proposed rulemaking also makes clear that an applicant who is attending college, university or technical school outside of this Commonwealth but maintains their residence in this Commonwealth while their college, university or technical school is not in session is a resident under 71 Pa.C.S. § 2301(b). Equally, this proposed rulemaking addresses the residency status of members of the armed forces of the United States and their spouses. Finally, this proposed rulemaking addresses county preference, under which an appointing authority may request the Office of Administration to limit certification to eligibles residing in a specific county

within this Commonwealth. County preference is authorized by 71 Pa.C.S. § 2301(c). Specifically, 71 Pa.C.S. § 2301(c) permits the Office of Administration to limit certification to eligibles who are residents of a “district.” In turn, the courts have interpreted the term “district” to mean county. *Cambria Cnty. Mental Health/Mental Retardation v. State Civ. Serv. Comm’n (Cotton)*, 756 A.2d 103 (Pa. Cmwlth. 2000); *Humphreys v. State Civ. Serv. Comm’n*, 301 A.2d 400 (Pa. Cmwlth. 1973) (en banc); *Donahue v. State Civil Serv. Comm’n (Dep’t of Human Servs.)*, 253 A.3d 845 (Pa. Cmwlth. 2021) (Table Op.).

Subchapter B. Recruitment Methods; Selective Criteria

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

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

Subchapter C. Vacancy Postings and Application Process

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

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

Proposed § 610.6 (relating to evaluation of applications) addresses the Office of Administration’s evaluation of applicants’ qualifications for employment in a classified service position. Under this proposed rulemaking, the Office of Administration must determine whether an applicant possesses the minimum qualifications for employment in the job classification and, when applicable, the selective criteria required for appointment or promotion to the position to which the applicant applied. The primary basis and source of authority for the Office of Administration’s evaluation of qualifications is the job specification of the job classification, which are promulgated by the Executive Board and set forth the minimum qualifications necessary for employment in the job classification. Often, a job classification’s minimum qualifications require interpretation by the Office of Administration, since they use broad terminology such as “paraprofessional experience.” Accordingly, this proposed rulemaking permits the Office of Administration to develop aids for interpreting minimum qualifications. These aids represent the Office of Administration’s official interpretation of the various minimum qualifications and are binding for purposes of evaluations. The Office of Administration’s practice of using aids to interpret minimum qualifications has been in place since the enactment of the act in 2019, and these aids have been afforded

deference by the State Civil Service Commission in the adjudicative process. See, e.g., *Nestor v. Off. of Admin.*, Appeal No. 31142 (SCSC 2024); *accord Phan v. Off. of Admin.*, Appeal No. 30284 (SCSC 2020).

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

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

Subchapter D. Examinations

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

Proposed § 610.9 (relating to development of examinations) addresses development of examinations. The basis for this provision is 71 Pa.C.S. § 2303 (relating to holding examinations and rating competitors), which empowers the Office of Administration to prepare and administer examinations. Under this proposed rulemaking, 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 Adminis-

tration may authorize further tests, as the circumstances warrant. Under this proposed rulemaking, position descriptions shall be the primary basis and authority for the content and difficulty of said examinations, and supplemental job information may be used as a further basis for examination standards. This proposed rulemaking affirms that no examination will require an applicant to provide information concerning their age, race, color, religious creed, ancestry, national origin, gender, sexual orientation, gender identity or expression, political opinions or affiliations, union membership or affiliations, AIDS or HIV status, or disability; nor will the information be required in another manner by an official or employee of the Office of Administration or of an appointing authority. This proposed rulemaking permits the Office of Administration to collaborate with appointing authorities or other qualified individuals regarding the content of examinations. Finally, when multiple tests or assessments constitute the entirety of an examination, this proposed rulemaking permits the Office of Administration to consider the relative value of tests or assessments and fix the relative weights.

Proposed § 610.10 (relating to administration of examinations) addresses the administration of examinations and effectuates 71 Pa.C.S. § 2303. Under this proposed rulemaking, the Office of Administration will administer examinations to establish employment and promotion lists. The Office of Administration shall publish notices of examinations, may collaborate with appointing authorities or other qualified individuals in administering examinations, and will notify applicants of admittance or non-admittance to an examination. The Office of Administration is not required to examine an applicant who lacks the established requirements for admission or minimum qualifications in the relevant job class. Moreover, this proposed rulemaking enables the Office of Administration to refuse to examine an applicant for additional reasons, set forth in proposed subsection (e), such as where the applicant has been convicted of a crime that renders the applicant unfit for the position sought, the applicant was previously terminated from prior employment due to incompetence or misconduct that renders the applicant unfit for the position sought, or where the applicant lacks professionalism, honesty, trustworthiness or dependability.

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

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

Office of Administration considers only felony and misdemeanor convictions and does not consider summary offenses, mere arrests or pending charges.

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

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

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

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

Proposed § 610.13 (relating to scoring of examinations) addresses scoring of examinations and implements 71 Pa.C.S. § 2305 (relating to ratings of competitors). Under subsections (a) and (b), the Office of Administration shall set qualifying raw scores, taking into consideration the number and quality of prospective eligibles, and may disqualify an applicant who fails to earn a qualifying score on any part of an examination. Under subsection (c), the Office of Administration may rank or group applicants using their final examination scores. Subsection (d) affirms the calculation of veterans' preference in the scoring process, while subsections (e) and (f) require the Office of Administration to correct and report discovered errors in applicants' examination scores and permits

applicants to request reconsideration of their examination score, respectively. Reconsideration by the Office of Administration under subsection (f) is limited to a re-review of the applicant's examination. Finally, subsection (g) permits the Office of Administration to not score applicants who lack the established requirements for admission to the examination, or who lack minimum qualifications for employment in the relevant job classification or, when applicable, the selective criteria required for employment in the specific position to which the applicant applied. This proposed rulemaking also permits the Office of Administration to refuse to score applicants based on the same factors set forth in proposed § 610.10(e). To ensure consistency, the Office of Administration applies the same nexus-based analysis to proposed §§ 610.13(g) and 610.10(e).

Proposed § 610.14 (relating to examination analysis and alternatives) addresses examination analysis and alternatives. Under this proposed rulemaking, the Office of Administration will initiate analysis to ensure examinations do not discriminate based on nonmerit factors and it further provides that the Office of Administration may, after investigation, invalidate examinations and substitute an alternative method of examination. Due to the numerous variables that are associated with examination analysis, this proposed rulemaking is written in a manner that affords the Office of Administration flexibility in conducting an examination analysis and addressing its findings. For example, the Office of Administration must ensure that examinations do not have a disparate impact on applicants based on factors such as race, gender, age, education level and national origin and, where a disparate impact is discovered, the Office of Administration requires the flexibility to address the impact in the most effective manner, which may range from retooling an examination for future use, to invalidation of an examination. The basis for proposed § 610.14 is 71 Pa.C.S. §§ 2202, 2303 and 2704. Notably, 71 Pa.C.S. § 2704 prohibits discrimination in the examination process. Finally, it bears noting that proposed § 610.14 mirrors the Office of Administration's temporary regulation at § 602a.14 (relating to examination analysis and alternatives), which in turn was based on the State Civil Service Commission's former regulation at § 95.48 which was reserved in 2023.

Subchapter E. Establishment of Eligible Lists

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

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

Proposed § 610.17 addresses amendment of eligible lists. Under this proposed rulemaking, the Office of Administration may amend an eligible list to correct a clerical error, including correcting an eligible's score, to indicate a change in an eligible's veteran status, to add or remove an eligible's name, or to suspend or change an applicant's eligibility for certification, appointment or promotion. Amendments may not disadvantage an individual who has started employment after being appointed or promoted based on a valid certification previously

issued. The basis for proposed § 610.17 is 71 Pa.C.S. § 2307. Specifically, 71 Pa.C.S. § 2307(c) permits the Office of Administration to correct clerical errors in connection with the preparation of an eligible list and revise the list accordingly.

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

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

Subchapter F. Certification of Eligibles

Proposed § 610.20 (relating to request for certification) addresses requests for certifications and implements 71 Pa.C.S. § 2401. Under this proposed rulemaking, the Office of Administration will issue to the appointing authority as many certifications as necessary to satisfy the employment needs of the appointing authority. Similarly, the Office of Administration shall certify as many types of eligible lists as requested by the appointing authority, thereby effectuating 71 Pa.C.S. § 2306.

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

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

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

Subchapter G. Appointment and Promotion of Eligibles from Certified Eligible Lists

Proposed § 610.24 (relating to rule of three and alternate rule) addresses the rule of three and alternate rule.

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

Proposed § 610.25 (relating to assessment of eligibles) addresses the assessment of eligibles. The Office of Administration draws its authority for this proposed rulemaking from its broad authority to implement and oversee the Commonwealth's merit system of employment, set forth in 71 Pa.C.S. § 2202(a), as well as 71 Pa.C.S. § 2402, which addresses the selection of eligibles. Under this proposed rulemaking, an appointing authority may conduct an interview or otherwise assess relative suitability for appointment or promotion of a certified eligible, but the assessment must be based on merit-related criteria and be conducted in accordance with the act and this subpart. The term "merit-related," which is used numerous times throughout this proposed rulemaking, stems from 71 Pa.C.S. § 2704, which prohibits discrimination in the examination, application and hiring process based on nonmerit factors. Criteria is merit-related where it "touch[es] upon [an individual's] competency and ability in some rational and logical manner." *Galant v. Com., Dep't of Envtl. Res.*, 626 A.2d 496, 498 n.2 (Pa. 1993).

Proposed § 610.26 (relating to removal of eligible from eligible list) addresses removal of an eligible from an eligible list. Subsection (a) sets forth the requirements for an appointing authority's request to remove an eligible. Subsection (b) provides the process for an eligible to respond to an appointing authority's request for a list removal. Finally, subsection (c) sets forth the Office of Administration's authority to grant or deny an appointing authority's list removal request. The duration of a list removal is subject to the discretion of the Office of Administration, based on the totality of the circumstances. For example, an eligible may be removed from a list for 6 months after repeated failures to attend scheduled interviews, or a list removal may be indefinite in duration where the eligible has made repeated threats of violence toward individuals involved in the hiring process. Because circumstances are often unique, it would be nearly impossible to set definite time frames in this proposed rulemaking. However, to ensure consistency among similar circumstances, the Office of Administration tracks list removal durations and attempts to levy list removals in an equitable manner. Proposed § 610.26 effectuates 71 Pa.C.S. §§ 2306 and 2402.

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

Subchapter H. Appointment and Promotion through Internal Recruitment Methods

Proposed § 610.28 (relating to referral of applicants) addresses the referral of applicants who apply for employment in the classified service through internal recruitment methods. Under this proposed rulemaking, upon the

closing of a vacancy posting limited to internal recruitment methods, the Office of Administration will refer to the appointing authority the names of those applicants available for appointment or promotion. The Office of Administration is not required to refer an applicant who lacks the minimum qualifications or for other factors enumerated in subsection (b). These enumerated factors mirror those in proposed § 610.10(e). Therefore, to ensure consistency, the Office of Administration applies the same nexus-based analysis to proposed §§ 610.28 and 610.10(e). Finally, proposed § 610.28 implements 71 Pa.C.S. §§ 2301, 2502, 2503 and 2606. The provision further effectuates section 217 of The Administrative Code of 1929, which requires all Commonwealth employees be qualified for the job classification that they hold.

Proposed § 610.29 (relating to reassignment) addresses reassignment and implements 71 Pa.C.S. § 2502(c), which permits the Office of Administration to develop the method by which employees can be reassigned in the classified service. Under this proposed rulemaking, an employee in the classified service may seek appointment to a vacant position through reassignment, provided the position is in the same or similar job classification to which the employee currently holds. The Office of Administration will determine whether job classifications are similar by reviewing whether the job classifications are in the same occupational field and whether movement from one job classification to the other job classification represents a logical career movement for the employee. If either factor is met, the job classifications shall be considered similar. In addition to the criteria set by the Office of Administration, an appointing authority may limit application for a reassignment based on additional, merit-related criteria.

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

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

Proposed § 610.32 (relating to reinstatement) addresses reinstatement. Under this proposed rulemaking, an applicant who previously held regular status 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. Proposed § 610.32 effectuates 71 Pa.C.S. § 2606(a)(2), which permits an individual to reinstate into the job classification from which the individual resigned.

Proposed § 610.33 (relating to promotion) addresses promotion and implements 71 Pa.C.S. §§ 2301 and 2404 and § 2505 (relating to effect of reclassifications). Subsec-

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

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

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

Proposed § 610.35 (relating to prohibition against securing withdrawal from competition) prohibits an applicant from influencing another applicant to withdraw from competition for a position in the classified service. Under this proposed rulemaking, the Office of Administration

may take appropriate action if an applicant violates this proposed rulemaking. The basis for this provision is 71 Pa.C.S. § 2703.

Subchapter I. Emergency Appointments

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

Chapter 611. Employees in the Classified Service

Subchapter A. Probationary Periods after Appointment or Promotion

Proposed § 611.1 (relating to probationary periods required) directs that employees in the classified service shall serve a probationary period after an appointment or promotion, unless otherwise stated in the act or this proposed rulemaking. This provision stems from 71 Pa.C.S. § 2404 and § 2605 (relating to rights of promoted employee during probationary period), which make clear that an employee must serve a probationary period after an appointment or promotion.

Proposed § 611.2 (relating to duration and extension of probationary periods) addresses the duration and extension of probationary periods. Under this proposed rulemaking, the minimum length of a probationary period shall be 6 months and the full length shall be determined by the Office of Administration. This proposed rulemaking also sets forth that a probationary period may be extended by the appointing authority to a maximum of 18 months, and the appointing authority must notify the Office of Administration of this extension. This provision implements 71 Pa.C.S. § 2404(a)(2), which establishes the minimum and maximum duration of a probationary period.

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

Proposed § 611.4 (relating to probationary period following demotion) addresses probationary periods following demotion. Subsection (a) sets forth that an employee who has achieved regular status and who is demoted shall retain regular status. Subsection (b) addresses the demotion of an employee who has never achieved regular status. Notably, the act does not address an employee's status following a demotion; as such, this proposed rule-

making is intended to fill this gap in a manner consistent with 71 Pa.C.S. § 2404(a)(1), which states that no appointment or promotion will be considered complete until the expiration of a probationary period.

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

Proposed § 611.6 (relating to probationary period following promotion) addresses probationary periods following promotion. Subsection (a) sets forth that an employee who has achieved regular status and who is promoted shall serve a probationary period, subject to the enumerated conditions. Subsection (b) addresses the status of employees returned from promotion. Subsection (c) sets forth that an employee who is promoted and who has never held regular status in the classified service does not have a right to return to a probationary status position previously held. When an employee fails the probationary period of the higher-level position, without having attained regular status in the position held prior to promotion, the employee will be separated by the appointing authority. The basis for this proposed rulemaking is 71 Pa.C.S. §§ 2404 and 2605 and § 2604 (relating to removal during probationary period).

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

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

Proposed § 611.9 (relating to credit towards probationary period) addresses credit towards probationary period. Under this proposed rulemaking, a probationary em-

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

Proposed § 611.10 (relating to effect of leave of absence on probationary period) addresses the effect of a leave of absence on a probationary period. Under this proposed rulemaking, leaves of absence shall not count towards probationary periods, and an appointing authority may require a new, full probationary period after a leave of absence exceeding 30 consecutive days. Although 71 Pa.C.S. § 2608 addresses leaves of absence from the classified service, the act does not address the impact of a leave of absence on a probationary period. Therefore, the Office of Administration, in accordance with its broad authority under 71 Pa.C.S. § 2202, develops this proposed rulemaking to address the gap in the act.

Proposed § 611.11 (relating to effect of a leave of absence for military duty on probationary period) addresses the effect of a leave of absence for military duty on a probationary period. Under this proposed rulemaking, leaves of absence for military duty shall not count towards probationary periods. Although 71 Pa.C.S. § 2403 (relating to substitution during military leave) addresses filling of a vacancy left by an employee who takes a leave of absence for military duty, the act is silent with respect to the impact of a leave of absence on a probationary period. To fill this gap, the Office of Administration developed this proposed rulemaking.

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

Subchapter B. Employee Performance Evaluations

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

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

Proposed § 611.15 (relating to retention of performance evaluations) concerns retention of performance evalua-

tions and review by the Office of Administration. Specifically, this proposed rulemaking requires that appointing authorities retain copies of a regular employee's performance evaluation for a period of 3 years. This proposed rulemaking further provides that, upon request by the Office of Administration, performance evaluations shall promptly be made available by an appointing authority to the Office of Administration. The basis for this proposed rulemaking is 71 Pa.C.S. § 2501.

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

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

Subchapter C. Movement of Employees by Appointing Authorities

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

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

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

Proposed § 611.21 (relating to status after movement of employees by appointing authorities) specifies the provisions of §§ 611.1—611.12 (relating to probationary periods after appointment or promotion) shall apply to appointments made in accordance with this subchapter. The basis for this proposed rulemaking is 71 Pa.C.S. § 2404.

Subchapter D. Reclassifications by the Office of Administration

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

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

Subchapter E. Compensation

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

Chapter 612. Separation of Employees from the Classified Service

Subchapter A. Leaves of Absence

Proposed § 612.1 (relating to leaves of absence generally) addresses leaves of absence and effectuates 71 Pa.C.S. § 2608. Subsections (a)—(c) set forth that an employee shall submit a written request for a leave of absence, which shall be for a definite period not to exceed 2 years, and which may be granted at the discretion of the appointing authority. Subsection (d) provides that an employee may submit a written request to extend this leave of absence, not to exceed 12 years. Notably, the act does not address issues concerning the duration of a leave of absence. Under the former practice of the State Civil Service Commission, leaves of absence were granted for a definite period not to exceed 2 years, with the option to be extended up to 12 total years. For continuity after the enactment of the act, the Office of Administration, under its general authority under 71 Pa.C.S. § 2202(a) to implement and administer the merit system, adopted the practice of the State Civil Service Commission. Subsection (e) enumerates the employee's return rights. Subsection (f) provides that certifications from a preferred reemployment list shall take precedence over all other eligible lists and referrals from internal recruitment methods. Finally, subsection (g) clarifies the scope of these leaves of absence shall not apply to military service and leaves of absence for employment in the Senior Management Service.

Proposed § 612.2 (relating to leaves of absence for military duty) addresses leaves of absence for military duty and is intended to implement 71 Pa.C.S. § 2608, as well as ensure compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 U.S.C. §§ 4301—4335). Subsection (a) instructs that an appointing authority shall grant a leave of absence to an employee for military duty. Subsection (b) addresses the method for which an employee may seek a leave of absence for military duty. Subsection (c) provides that the duration of the leave of absence shall coincide with the duration of the employee's military duty and subsection (d) affirms an employee on a leave of

absence for military duty shall have a guaranteed right of return, as prescribed by USERRA.

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

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

Subchapter B. Furlough

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

Subchapter C. Removal and Suspension

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

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

Subchapter D. Resignation

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

Proposed § 612.9 (relating to effective date of resignation) establishes the criteria for determining the effective date of resignations. Under this proposed rulemaking,

when an employee gives notice of the effective date of resignation, the employee will cease work on the specified date. When an employee does not specify an effective date of resignation, the resignation shall take effect immediately. A resignation submitted during or at the termination of a leave of absence shall be effective on the date submitted. Notably, although 71 Pa.C.S. § 2606 addresses resignations, it does not address the effective date of resignations. To fill this gap, the Office of Administration developed this proposed rulemaking.

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

Subchapter E. Seniority

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

Chapter 613. Enforcement of Act; Prohibitions and Penalties

Subchapter A. Office of Administration Review of Legality of Employment Actions

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

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

Subchapter B. Prohibition on Political Activity

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

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

Subchapter C. Investigations; Notice of Violations and Penalties

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

Chapter 614. Personnel Actions

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

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

section are mandatory, except as provided in subsection (f), which addresses resignations.

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

Chapter 615. Practice and Proceedings Before the Office of Administration

Subchapter A. General Provisions

Proposed §§ 615.1—615.29 concern hearings held by the Office of Administration. This proposed rulemaking implements 71 Pa.C.S. § 2202(a)(10), which empowers the Office of Administration to hold hearings and issue orders to ensure compliance with the act; 71 Pa.C.S. § 2202(a)(11), which empowers the Office of Administration to administer oaths and require testimony and the production of documents and records; 71 Pa.C.S. § 2202(b) which empowers the Office of Administration to issue subpoenas and 71 Pa.C.S. § 2307(d), which requires the Office of Administration to hold a public hearing prior to cancelling an eligible list due to illegality or fraud.

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

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

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

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

Proposed § 615.5 (relating to filings with Docket Clerk) establishes general document filing protocol and timeliness requirements with the Docket Clerk. Specifically, documents can be filed by first class mail or electronic mail. When a document is filed with the Docket Clerk by first class mail, the date of mailing, as evidenced by the United States Postal Service (USPS) postmark on the envelope containing the filing, a USPS Form 3817 (Certificate of Mailing) or another similar USPS form from

which the date of deposit with the USPS can be determined, shall be deemed the date of filing. When a document is filed with the Docket Clerk by electronic mail, the date of receipt recorded by the Docket Clerk's electronic mail system shall be deemed the date of filing. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

Subchapter B. Hearings under Section 2202(a)(10) of the Act

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

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

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

Proposed § 615.9 (relating to consolidation of proceedings) provides that proceedings may be consolidated at the discretion of the Office of Administration.

Proposed § 615.10 (relating to severance of proceedings) provides that proceedings may be severed at the discretion of the Office of Administration.

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

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

Proposed § 615.13 (relating to subpoenas) sets forth the procedure for requesting subpoenas, the service requirements of subpoenas and the enforcement of subpoenas. Requests for subpoenas must be submitted in writing to the presiding officer. A written request shall specify the relevance of the testimony or documentary evidence sought. For documentary evidence, the request must specify, to the extent possible, the documents desired and

the facts to be proved thereby. A subpoena for new or additional witnesses will not be issued after a hearing has been started and continued unless orally requested on the record at the hearing and approved by the presiding officer, except that subpoenas issued prior to the start and continuance of the hearing may be reissued upon written request. A subpoena for the attendance of a witness must be personally served on the witness at least 48 hours prior to the hearing, unless the witness agrees to waive the 48-hour requirement. A subpoena for the production of documents may be served personally, by mail, by facsimile machine or by other electronic means upon the individual in possession of the documents, the legal counsel for the entity or individual in possession of the documents or the designated custodian of the documents. A subpoena for the production of documents shall be served no later than 10 business days prior to the hearing. Failure to comply with this proposed rulemaking may result in the subpoena not being issued or enforced.

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

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

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

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

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

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

Proposed § 615.20 (relating to proposed decision and order) requires that the presiding officer issue a proposed decision and order upon the closing of the record. Subsection (b) sets forth the required content of the proposed decision and order. The proposed decision and order must be well reasoned and supported by the facts and applicable law. Subsection (c) establishes that a proposed decision and order shall be deemed final in 20 days unless exceptions are timely filed with the Secretary of Administration.

Proposed § 615.21 (relating to exceptions) establishes the ability for the filing of exceptions to a proposed decision and order within 20 days of the date of the proposed decision and order. Further, this proposed rule-

making sets forth the content and service requirements of exceptions and sets forth that failure to file exceptions constitutes a waiver of all objections to the proposed decision and order. Exceptions must state the specific issues of procedure, fact or law or other portion of the proposed decision and order to which each exception is taken. Filing and service of exceptions shall occur simultaneously.

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

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

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

Subchapter C. List Cancellation Hearings

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

Proposed § 615.26 (relating to notice of list cancellation hearing) requires the Office of Administration to provide advance notice of a list cancellation hearing to those eligibles whose names appear on the relevant list. This proposed rulemaking sets forth the content of the advance notice.

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

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

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

Affected Individuals and Organizations

This proposed rulemaking will affect State and local governmental entities that utilize the Commonwealth's merit system of employment, individuals who are employed in classified service positions and individuals who

are seeking employment in the classified service. There are no private sector business entities that will be affected by this proposed rulemaking.

Fiscal Impact

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

Paperwork Requirements

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

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

Effective Date

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

Sunset Date

The Office of Administration continuously monitors its regulations, as required by Executive Order 1996-1 (4 Pa. Code §§ 1.371—1.382 (relating to regulatory review and promulgation)). Therefore, no sunset date has been assigned.

Public Comments

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

Contact Person

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

Regulatory Review

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

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

the rulemaking, by the Office of Administration, the General Assembly and the Governor.

NEIL WEAVER,
Secretary

Fiscal Note: 99-13. No fiscal impact; recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART XV. OFFICE OF ADMINISTRATION

Subpart A. [Reserved]

CHAPTER 601a. [Reserved]

Subchapter A. [Reserved]

§§ 601a.1—601a.8. [Reserved]

Subchapter B. [Reserved]

§§ 601a.9—601a.13. [Reserved]

CHAPTER 602a. [Reserved]

Subchapter A. [Reserved]

§ 602a.1. [Reserved]

Subchapter B. [Reserved]

§§ 602a.2 and 602a.3. [Reserved]

Subchapter C. [Reserved]

§§ 602a.4—602a.7. [Reserved]

Subchapter D. [Reserved]

§§ 602a.8—602a.14. [Reserved]

Subchapter E. [Reserved]

§§ 602a.15—602a.19. [Reserved]

Subchapter F. [Reserved]

§§ 602a.20—602a.23. [Reserved]

Subchapter G. [Reserved]

§§ 602a.24—602a.27. [Reserved]

Subchapter H. [Reserved]

§§ 602a.28—602a.35. [Reserved]

Subchapter I. [Reserved]

§ 602a.36. [Reserved]

CHAPTER 603a. [Reserved]

Subchapter A. [Reserved]

§§ 603a.1—603a.12. [Reserved]

Subchapter B. [Reserved]

§§ 603a.13—603a.17. [Reserved]

Subchapter C. [Reserved]

§§ 603a.18—603a.21. [Reserved]

Subchapter D. [Reserved]

§§ 603a.22 and 603a.23. [Reserved]

Subchapter E. [Reserved]

§ 603a.24. [Reserved]

CHAPTER 604a. [Reserved]

Subchapter A. [Reserved]

§§ 604a.1—604a.4. [Reserved]

Subchapter B. [Reserved]

§ 604a.5. [Reserved]

Subchapter C. [Reserved]

§§ 604a.6 and 604a.7. [Reserved]

Subchapter D. [Reserved]

§§ 604a.8—604a.10. [Reserved]

Subchapter E. [Reserved]

§ 604a.11. [Reserved]

CHAPTER 605a. [Reserved]**Subchapter A. [Reserved]**

§§ 605a.1 and 605a.2. [Reserved]

Subchapter B. [Reserved]

§ 605a.3. [Reserved]

Subchapter C. [Reserved]

§ 605a.4. [Reserved]

CHAPTER 606a. [Reserved]

§§ 606a.1—606a.3. [Reserved]

CHAPTER 607a. [Reserved]**Subchapter A. [Reserved]**

§§ 607a.1—607a.5. [Reserved]

Subchapter B. [Reserved]

§§ 607a.6—607a.24. [Reserved]

Subchapter C. [Reserved]

§§ 607a.25—607a.29. [Reserved]

(*Editor's Note:* Subpart B is proposed to be added and is printed in regular type to enhance readability.)

Subpart B. CIVIL SERVICE REFORM**CHAPTER 608. GENERAL PROVISIONS****GENERAL PROVISIONS**

Sec.	Short title.
608.1.	Short title.
608.2.	Purpose.
608.3.	Definitions.
608.4.	Veterans' preference.
608.5.	Age preference.
608.6.	Reasonable accommodations.
608.7.	Service to departments, boards and commissions, agencies and political subdivisions; reimbursement for services.
608.8.	Electronic records and signatures.

§ 608.1. Short title.

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

§ 608.2. Purpose.

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

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

§ 608.3. Definitions.

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

Act—Part III of 71 Pa.C.S. (relating to civil service reform), commonly referred to as "the Civil Service Reform Act."

Alternate rule—An alternative selection rule elected by an appointing authority for appointments and promotions made through the examination and certification process,

which gives the appointing authority the ability to select from all eligibles on an appropriate eligible list or a specific alternate number of eligibles on an appropriate eligible list, greater than three, to fill a position.

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

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

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

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

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

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

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

Examination—A test, series of tests or assessment used to determine the degree to which an individual is qualified for appointment or promotion to a position or job classification in the classified service.

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

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

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

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

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

Military duty—Active duty, including active duty for training or inactive duty training, in the uniformed services on dates ordered or authorized by the uniformed service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Temporary employee—An individual appointed to a temporary position.

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

Training period—The period of time a trainee will remain in a training level job classification, during which the trainee receives general or specialized training, or both.

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

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

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

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

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

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

§ 608.4. Veterans' preference.

(a) *Application of veterans' preference.*

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

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

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

(c) *Required documentation.*

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

ment of service or a similarly effective form issued by the United States Department of Defense relating to separation from military service, showing the date of entry into the military, character of service and completion of the initial contractual military service obligation prior to starting the position for which they applied, if selected by the appointing authority.

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

(3) *Spouses of disabled veterans.* A spouse of a disabled veteran shall submit, to the Office of Administration, documentation as required by the Office of Administration, including a copy of the disabled veteran's documents, as set forth in paragraph (1), and a letter from the United States Department of Veterans Affairs verifying that the disabled veteran has a permanent total disability.

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

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

(f) *Powers and duties of the Special Advisor for Veterans' Programs*

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

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

§ 608.5. Age preference.

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

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

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

§ 608.6. Reasonable accommodations.

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

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

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

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

(1) A formal request for extension of the merit system employment services of the Office of Administration shall be made in writing and shall be signed by the executive head or chair of the requesting department, board, commission or agency, or the proper official of the political subdivision. If appropriate, the written request shall be accompanied by a resolution or similar document adopted by the board, commission or agency, or by the proper official of the political subdivision.

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

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

(c) *Compliance with act, regulations and contract.* A personnel action taken by a department, board, commission, agency or political subdivision under contract with the Office of Administration shall conform to the act, this subpart and the contract executed under subsection (a)(2).

§ 608.8. Electronic records and signatures.

The Office of Administration or an appointing authority may, in its discretion, utilize and accept, in the form and manner prescribed by the Office of Administration or appointing authority, electronic records and electronic signatures, where written documents, forms, signatures or other required submissions are required by this subpart, provided that these records and signatures comply with Chapter 3 of the Electronic Transactions Act (73 P.S. §§ 2260.301—2260.312), and other laws governing electronic records and signatures.

CHAPTER 609. CLASSIFICATION SYSTEM CLASSIFICATION SYSTEM

Sec.	
609.1.	General.
609.2.	Trainee job classifications.
609.3.	Intern job classifications.
609.4.	Minimum qualifications.
609.5.	Unclassified service.

§ 609.1. General.

In accordance with 71 Pa.C.S. § 2504 (relating to classification and compensation), the Office of Administra-

tion will utilize the Commonwealth's classification system, as established by the Board, for those positions within the classified service unless otherwise set forth in a written contract or agreement under § 608.7(a)(2) (relating to service to departments, boards and commissions, agencies and political subdivisions; reimbursement for services).

§ 609.2. Trainee job classifications.

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

§ 609.3. Intern job classifications.

Subject to the approval of the Board, the Office of Administration, in cooperation with the appointing authorities, may designate specific job classifications for internship purposes, provided the intern classification corresponds to one or more trainee job classification or working level job classification.

§ 609.4. Minimum qualifications.

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

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

§ 609.5. Unclassified service.

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 610. APPOINTMENTS AND PROMOTIONS IN THE CLASSIFIED SERVICE

Subchap.

A. RESIDENCY REQUIREMENT

B. RECRUITMENT METHODS; SELECTIVE CRITERIA

C. VACANCY POSTINGS AND APPLICATION PROCESS

D. EXAMINATIONS

E. ESTABLISHMENT OF ELIGIBLE LISTS

F. CERTIFICATION OF ELIGIBLES

G. APPOINTMENT AND PROMOTION OF ELIGIBLES FROM CERTIFIED ELIGIBLE LISTS

H. APPOINTMENT AND PROMOTION THROUGH INTERNAL RECRUITMENT METHODS

I. EMERGENCY APPOINTMENTS

Subchapter A. RESIDENCY REQUIREMENT

Sec.

610.1. Residency requirement.

§ 610.1. Residency requirement.

(a) *Requirement.* An applicant seeking appointment or promotion to a position in the classified service shall be a resident or former resident of this 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.* Except as otherwise provided in this subsection, a resident is an applicant whose current primary residence is within this Commonwealth. The following apply:

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

(2) *Members of the armed forces and their spouses.* An applicant who is a current active-duty member of the armed forces of the United States, or who is the spouse of a current active-duty member of the armed forces of the United States, is a resident if the applicant meets either of the following:

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

(ii) The applicant is currently living in this Commonwealth as part of their or their spouse's current enlistment, the applicant or their spouse are scheduled to be

discharged within 90 days of the applicant submitting their application to the Office of Administration and the applicant intends to reside in this Commonwealth immediately after the discharge.

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

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

(2) Satisfied the requirements set forth in sections 1327 and 1327.1 of the Public School Code of 1949 or attended a public, private or nonpublic school in this Commonwealth at least 80% of the time while enrolled in grades 1 through 12 within 5 years of applying for a position in the classified service.

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

(d) *Counties.*

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

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

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

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

Subchapter B. RECRUITMENT METHODS; SELECTIVE CRITERIA

Sec.	
610.2.	Recruitment methods.
610.3.	Selective criteria.

§ 610.2. Recruitment methods.

(a) *Generally.* Except as otherwise authorized by this section, recruitment for a vacant position in the classified

service will be through examination. Examinations may be for a single position or for employment in a job classification generally.

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

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

(d) *Reemployment lists.* Where a preferred reemployment list or a mandatory reemployment list exists for the job classification to which there is a vacant position, an appointing authority shall first attempt to fill the position using the applicable preferred reemployment list or mandatory reemployment list prior to using other recruitment methods.

§ 610.3. Selective criteria.

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

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

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

Subchapter C. VACANCY POSTINGS AND APPLICATION PROCESS

Sec.	
610.4.	Vacancy postings.
610.5.	Application requirements.
610.6.	Evaluation of applications.
610.7.	Audit of applications.

§ 610.4. Vacancy postings.

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

- (1) The appointing authority.
- (2) The relevant bureau, division, office or program area.
- (3) The job classification.
- (4) The position number, if assigned.
- (5) The starting salary or hourly rate of pay.
- (6) The position type.
- (7) The location of the position and a statement indicating whether the position is eligible for telework.
- (8) A general description of the position 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, if applicable.

(13) If applicable, notice that the acceptance of applications will be limited in accordance with § 610.5(a)(5) (relating to application requirements).

(14) The examination information or the internal recruitment methods, including, if applicable, the job classification constituting the next lower classification and a requirement that applicants submit their most recent employee performance review.

(15) The closing date and time of the vacancy posting.

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

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

(1) Remove the nonconforming vacancy posting.

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

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

§ 610.5. Application requirements.

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

(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 filed on the same date or on an earlier date. The Office of Administration, in its discretion, may accept applications filed after the date and time specified in the vacancy posting if it determines extraordinary circumstances warrant acceptance.

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

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

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

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

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

§ 610.6. Evaluation of applications.

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

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

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

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

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

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

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

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

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

§ 610.7. Audit of applications.

Information included on an applicant's application may be subject to audit by the Office of Administration, including audit after the applicant's appointment or promotion. Audits performed under this section are separate and distinct from any verification or background check performed by the Office of Administration, an appointing authority or human resources staff supporting an appointing authority.

If the Office of Administration cannot confirm information included on an applicant's application, the applicant

may be deemed ineligible for appointment or promotion to the relevant position or otherwise removed from the position.

Subchapter D. EXAMINATIONS

Sec.	
610.8.	Selection of examination method.
610.9.	Development of examinations.
610.10.	Administration of examinations.
610.11.	Promotion examinations.
610.12.	Prohibited conduct in examinations.
610.13.	Scoring of examinations.
610.14.	Examination analysis and alternatives.

§ 610.8. Selection of examination method.

The appointing authority shall select the method of examination to be used for the job classification or position for which the employment list or promotion list is being established. Except as otherwise authorized in this subpart, or as authorized in writing by the Office of Administration, appointing authorities may not develop and administer their own examinations for appointment or promotion in the classified service.

§ 610.9. Development of examinations.

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

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

(c) *Limitations on examinations.* An examination will not 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 to which they applied, and after consultation with the appointing authority, will fix the relative weights of the tests or assessments. Modifications to the relative weights will be announced to all applicants.

§ 610.10. Administration of examinations.

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

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

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

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

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

(1) The applicant has been convicted of, or has pled guilty to, a crime, including a plea of *nolo contendere*, or has otherwise engaged in conduct that renders the applicant unfit or unsuitable for the position sought; provided that the requirements and restrictions contained within 18 Pa.C.S. Chapter 91 (relating to criminal history record information), are strictly followed.

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

(3) The applicant has made a false statement, 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 an in-person examination 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 cancelling, postponing or rescheduling an examination shall be made part of the examination record. If parts of a multipart examination are cancelled, 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. An applicant who attempts to retake an examination outside of the designated time frame may have their examination rejected and may be prohibited from taking further examinations for a period of time to be determined by the Office of Administration.

§ 610.11. Promotion examinations.

(a) Except as indicated in this section, a promotion examination will be open to probationary and regular employees who occupy a position with a lower maximum salary than the position relevant to the examination, possess the minimum qualifications for employment in the relevant job classification and, where applicable, possess the selective criteria required for promotion to the relevant position. As approved by the Office of Administration, a promotion examination may be limited to employees occupying positions in specified job classifications.

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

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

§ 610.12. Prohibited conduct in examinations.

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

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

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

§ 610.13. Scoring of examinations.

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

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

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

(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. The following apply:

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

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

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

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

(1) The applicant has been convicted of, or has pled guilty to, a crime, including a plea of nolo contendere, or has otherwise engaged in conduct that renders the applicant unfit or unsuitable for the position sought; provided that the requirements and restrictions contained within 18 Pa.C.S. Chapter 91 (relating to criminal history record information) are strictly followed.

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

(3) The applicant has made a false statement, 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.

§ 610.14. Examination analysis and alternatives.

(a) *Analysis.* The Office of Administration will initiate analysis of examinations as necessary to ensure that examinations do not discriminate on the basis of nonmerit factors.

(b) *Invalidation and substitution.* The Office of Administration, after investigation, may invalidate all or part of the examination results and, in its discretion, substitute an alternative method of examination. The Office of Administration will notify applicants of the action and the reasons, therefore.

Subchapter E. ESTABLISHMENT OF ELIGIBLE LISTS

Sec.	
610.15.	Creation of eligible lists.
610.16.	Duration of eligible lists.
610.17.	Amendment of eligible lists.
610.18.	Replacement and integration of eligible lists.
610.19.	Cancellation of eligible lists.

§ 610.15. Creation of eligible lists.

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

§ 610.16. Duration of eligible lists.

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

§ 610.17. Amendment of eligible lists.

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

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

§ 610.18. Replacement and integration of eligible lists.

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

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

§ 610.19. Cancellation of eligible lists.

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

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

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

Subchapter F. CERTIFICATION OF ELIGIBLES

Sec.	
610.20.	Request for certification.
610.21.	Content of certification.
610.22.	Duration of certification.
610.23.	Refusal to certify; removal from certification.

§ 610.20. Request for certification.

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

(b) *Types of certified eligible lists.* The Office of Administration shall certify as many types of eligible lists as requested by the appointing authority, including, but not limited to, lists containing only the names of those eligibles currently employed by the appointing authority; lists containing only the names of those eligibles currently employed by the Commonwealth; lists containing only the names of those eligibles possessing selective criteria imposed in accordance with the act and this subpart; and lists containing only the names of those eligibles who are veterans.

§ 610.21. Content of certification.

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

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

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

§ 610.22. Duration of certification.

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

§ 610.23. Refusal to certify; removal from certification.

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

certified eligible list, for a period of time as determined by the Office of Administration, an eligible who has had any of the following occur:

(1) The eligible has been convicted of, or has pled guilty to, a crime, including a plea of *nolo contendere*, or has otherwise engaged in conduct that renders the eligible unfit or unsuitable for the position sought; provided that the requirements and restrictions contained within 18 Pa.C.S. Chapter 91 (relating to criminal history record information) are strictly followed.

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

(3) The eligible has made a false statement, 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.	
610.24.	Rule of three and alternate rule.
610.25.	Assessment of eligibles.
610.26.	Removal of eligible from eligible list.
610.27.	Prohibition against securing withdrawal from competition.

§ 610.24. Rule of three and alternate rule.

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

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

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

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

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

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

§ 610.25. Assessment of eligibles.

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

§ 610.26. Removal of eligible from eligible list.

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

(1) A request for removal of an eligible's name from an established or certified eligible list shall be promptly raised by the appointing authority.

(2) An appointing authority requesting removal of an eligible's name from an established or certified eligible list shall submit a written request for removal to the Office of Administration, which shall include the basis for the request and all supporting documents that were relied upon by the appointing authority to determine that the eligible's name should be removed.

(3) A request for removal of an eligible's name from an established or certified eligible list must be based upon merit-related criteria.

(4) On the same date an appointing authority submits to the Office of Administration a request for removal of an eligible's name from an established or certified eligible list, the appointing authority shall send a copy of the request for removal, including all supporting documents provided to the Office of Administration, to the eligible. The copy of the request for removal sent to the eligible must include specific instructions on how to respond to the request for removal, as set forth in subsection (b).

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

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

§ 610.27. Prohibition against securing withdrawal from competition.

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

Subchapter H. APPOINTMENT AND PROMOTION THROUGH INTERNAL RECRUITMENT METHODS

Sec.	
610.28.	Referral of applicants.
610.29.	Reassignment.
610.30.	Transfer.
610.31.	Voluntary demotion.
610.32.	Reinstatement.
610.33.	Promotion.
610.34.	Assessment of referred applicants.
610.35.	Prohibition against securing withdrawal from competition.

§ 610.28. Referral of applicants.

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

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

(1) The applicant has been convicted of, or has pled guilty to, a crime, including a plea of nolo contendere, or has otherwise engaged in conduct that renders the eligible unfit or unsuitable for the position sought; provided that the requirements and restrictions contained within 18 Pa.C.S. Chapter 91 (relating to criminal history record information) are strictly followed.

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

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

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

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

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

§ 610.29. Reassignment.

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

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

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

§ 610.30. Transfer.

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

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

§ 610.31. Voluntary demotion.

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

§ 610.32. Reinstatement.

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

§ 610.33. Promotion.

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

(1) By promotion of a probationary or regular employee from an appropriate employment list.

(2) By promotion of a probationary or regular employee from a promotion list.

(3) By promotion of a regular employee without examination, based upon meritorious service and seniority.

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

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

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

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

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

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

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

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

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

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

(c) *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.

(d) *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 these terms are not otherwise contrary to the act or this subpart.

(e) *Definitions.* For purposes of subsection (b), the following definitions apply:

Meritorious service.—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.

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

§ 610.34. Assessment of referred applicants.

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

§ 610.35. Prohibition against securing withdrawal from competition.

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

Subchapter I. EMERGENCY APPOINTMENTS

Sec.

610.36. Emergency appointments.

§ 610.36. Emergency appointments.

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

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

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

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

CHAPTER 611. EMPLOYEES IN THE CLASSIFIED SERVICE

Subchap.

A. PROBATIONARY PERIODS AFTER APPOINTMENT OR PROMOTION

B. EMPLOYEE PERFORMANCE EVALUATIONS

C. MOVEMENT OF EMPLOYEES BY APPOINTING AUTHORITIES

D. RECLASSIFICATIONS BY THE OFFICE OF ADMINISTRATION

E. COMPENSATION

Subchapter A. PROBATIONARY PERIODS AFTER APPOINTMENT OR PROMOTION

Sec.

611.1. Probationary periods required.
 611.2. Duration and extension of probationary periods.
 611.3. Probationary period following reassignment or transfer.
 611.4. Probationary period following demotion.
 611.5. Probationary period following reinstatement.
 611.6. Probationary period following promotion.
 611.7. Probationary period of trainees.
 611.8. Probationary period of interns.
 611.9. Credit towards probationary period.
 611.10. Effect of leave of absence on probationary period.

- 611.11. Effect of a leave of absence for military duty on probationary period.
- 611.12. Conferment of regular status and removal of probationary employees.

§ 611.1. Probationary periods required.

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

§ 611.2. Duration and extension of probationary periods.

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

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

§ 611.3. Probationary period following reassignment or transfer.

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

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

§ 611.4. Probationary period following demotion.

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

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

§ 611.5. Probationary period following reinstatement.

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

§ 611.6. Probationary period following promotion.

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

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

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

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

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

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

§ 611.7. Probationary period of trainees.

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

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

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

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

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

§ 611.8. Probationary period of interns.

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

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

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

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

(c) *Promotion after internship.* An intern who has successfully completed the duration of the internship may be promoted in the manner set forth in § 610.33(b)(2) (relating to promotion). Notice of successful completion of the probationary period shall be given in accordance with § 611.12(a) (relating to conferment of regular status and removal of probationary employees).

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

§ 611.9. Credit towards probationary period.

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

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

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

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

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

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

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

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

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

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

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

shall confer regular status upon the employee at the expiration of the probationary period.

(d) *Removal of probationary employee.*

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

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

Subchapter B. EMPLOYEE PERFORMANCE EVALUATIONS

Sec.

611.13.	Performance evaluations generally.
611.14.	Completion of performance evaluations.
611.15.	Retention of performance evaluations.
611.16.	Review of performance evaluations.
611.17.	Use of performance evaluations.

§ 611.13. Performance evaluations generally.

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

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

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

§ 611.14. Completion of performance evaluations.

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

§ 611.15. Retention of performance evaluations.

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

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

§ 611.16. Review of performance evaluations.

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

§ 611.17. Use of performance evaluations.

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

Subchapter C. MOVEMENT OF EMPLOYEES BY APPOINTING AUTHORITIES

- Sec. 611.18. Reassignment by appointing authority.
- 611.19. Transfer by appointing authority.
- 611.20. Involuntary demotions.
- 611.21. Status after movement of employees by appointing authorities.

§ 611.18. Reassignment by appointing authority.

(a) *Generally.* An appointing authority may reassign an employee from one position to another in the same job classification or in a similar job classification for which the employee qualifies.

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

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

§ 611.19. Transfer by appointing authority.

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

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

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

§ 611.20. Involuntary demotions.

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

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

The corresponding provisions of §§ 611.1—611.12 (relating to probationary periods after appointment or promotion) shall apply to appointments made in accordance with this subchapter.

Subchapter D. RECLASSIFICATIONS BY THE OFFICE OF ADMINISTRATION

- Sec. 611.22. Reclassifications.
- 611.23. Effect of reclassification on status.

§ 611.22. Reclassifications.

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

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

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

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

§ 611.23. Effect of reclassification on status.

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

Subchapter E. COMPENSATION

- Sec. 611.24. Effect of change in compensation schedules.

§ 611.24. Effect of change in compensation schedules.

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

CHAPTER 612. SEPARATION OF EMPLOYEES FROM THE CLASSIFIED SERVICE

- Subchap. A. LEAVES OF ABSENCE
- B. FURLOUGH
- C. REMOVAL AND SUSPENSION
- D. RESIGNATION
- E. SENIORITY

Subchapter A. LEAVES OF ABSENCE

- Sec. 612.1. Leaves of absence generally.
- 612.2. Leaves of absence for military duty.
- 612.3. Vacancies due to leaves of absence for military duty.
- 612.4. Leave of absence for Senior Management Service employment.

§ 612.1. Leaves of absence generally.

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

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

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

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

(e) *Right of return.* Upon the expiration of an employee's approved leave of absence, or after an employee

requests to return from an approved leave of absence in writing to the appointing authority, the employee shall have the right to return to employment in the classified service with the same appointing authority, subject to the following:

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

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

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

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

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

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

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

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

§ 612.2. Leaves of absence for military duty.

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

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

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

(d) *Right of return.* An employee on a leave of absence for military duty shall have a guaranteed right of return

in accordance with the act, this subpart and the Uniformed Services Employment and Reemployment Rights Act.

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

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

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

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

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

(c) *Permanent appointment or promotion.* substitute appointment or substitute promotion shall be converted to a permanent appointment or promotion when the incumbent who was granted the leave of absence for military duty fails to return to the position within the applicable time frame prescribed by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §§ 4301—4335).

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

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

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

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

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

Subchapter B. FURLOUGH

Sec.
612.5. Furlough.

§ 612.5. Furlough.

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

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

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

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

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

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

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

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

(g) *Optional reemployment after furlough.* A furloughed employee who is unable to exercise their right of return under subsection (e) will, for 1 year, be placed on optional reemployment lists for the job classification from which furloughed and for equal and lower-level job classifications for which they are qualified, for certification to all appointing authorities.

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

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

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

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

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

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

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

Subchapter C. REMOVAL AND SUSPENSION

Sec.	
612.6.	Removal.
612.7.	Suspension.

§ 612.6. Removal.

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

§ 612.7. Suspension.

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

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

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

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

(c) *Duration of suspension.*

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

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

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

Subchapter D. RESIGNATION

Sec.	
612.8.	Notice of resignation.
612.9.	Effective date of resignation.
612.10.	Acceptance or rejection of resignation.

§ 612.8. Notice of resignation.

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

§ 612.9. Effective date of resignation.

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

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

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

§ 612.10. Acceptance or rejection of resignation.

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

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

(c) *Withdrawal of resignation.* An employee's resignation may not be withdrawn without the written consent of

the appointing authority once the resignation has been accepted by the appointing authority. A resignation that has not been accepted by the appointing authority may be withdrawn by the employee at any time prior to acceptance or the effective date.

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

Subchapter E. SENIORITY

Sec.	
612.11.	Break in service.

§ 612.11. Break in service.

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

(1) Removal for just cause.

(2) Resignation.

(3) Retirement.

(4) Failure to accept an offer to return after furlough under 71 Pa.C.S. § 2602(b)(1) (relating to furlough) and this subpart.

(5) Failure to accept an offer to return after a leave of absence under 71 Pa.C.S. § 2608(b) (relating to leave of absence) and this subpart.

(6) Expiration of mandatory, preferred or optional re-employment rights.

(7) Failure to report after a leave of absence.

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

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

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

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

- A. OFFICE OF ADMINISTRATION REVIEW OF LEGALITY OF EMPLOYMENT ACTIONS**
B. PROHIBITION ON POLITICAL ACTIVITY
C. INVESTIGATIONS; NOTICE OF VIOLATIONS AND PENALTIES

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

Sec.	
613.1.	Reporting.
613.2.	Review of personnel actions.

§ 613.1. Reporting.

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

§ 613.2. Review of personnel actions.

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

Subchapter B. PROHIBITION ON POLITICAL ACTIVITY

Sec. 613.3. Scope of prohibition.

§ 613.3. Scope of prohibition.

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

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

(2) An employee who is elected to and assumes public office while on furlough may serve out the remaining portion of the present term of office, provided the duties of the elective public office do not present a conflict of interest with the duties of the employee's position in the classified service, and the employee does not otherwise engage in activity prohibited by 71 Pa.C.S. § 2705. The employee may not seek and accept appointment, nomination, and election for a new term in office.

(b) An employee who is elected to public office prior to appointment to a position in the classified service may serve out the remaining portion of the present term of office, provided the duties of the elective public office do not present a conflict of interest with the duties of the employee's position in the classified service and the employee does not otherwise engage in activity prohibited by 71 Pa.C.S. § 2705. The employee may not seek and accept appointment, nomination or election for a new term in office.

Subchapter C. INVESTIGATIONS; NOTICE OF VIOLATIONS AND PENALTIES

Sec. 613.4. Procedure.

§ 613.4. Procedure.

(a) *Investigations.* The Office of Administration will investigate allegations of violations of the act or this subpart by an employee or applicant.

(b) *Request for investigation.* An individual suspecting that an individual has violated the act or this subpart may file a written request for investigation with the Office of Administration, which shall contain sufficient details of the alleged violation so as to enable proper investigation by the Office of Administration.

(c) *Hearing.* When appropriate, the Office of Administration may convene a hearing under 71 Pa.C.S. § 2202(a)(10) (relating to duties of Office of Administration) to determine whether an employee violated the act or this subpart and the appropriate penalty or remedy. The hearings shall be conducted in accordance with Chapter 615 (relating to practice and proceedings before the Office of Administration).

(d) *Notice.* Whenever the Office of Administration determines that an employee has violated the act or this subpart, the Office of Administration will give written notice to the appropriate appointing authority of the determination, including appropriate corrective actions. Notice that an employee intentionally falsified information, failed to disclose a material fact or otherwise concealed information to obtain appointment or promotion shall also include a reference to 71 Pa.C.S. § 2702(b) (relating to false statements made under oath and concealing information).

(e) *Penalties.* Unless otherwise required by the act or this subpart, penalties for violation of the act or this subpart shall be within the discretion of the Office of Administration.

(1) *Intentional violation.* Except as provided in paragraphs (2) and (3), an employee who intentionally violates Chapter 27 of the act (relating to prohibitions, penalties and enforcement) shall be immediately removed from employment in the classified service.

(2) *Political activity.* An employee who violates 71 Pa.C.S. § 2705 (relating to political activity) or § 613.3 (relating to scope of prohibition) shall be removed from employment in the classified service, provided the Office of Administration may impose a penalty of suspension without pay for not more than 120 working days if the Office of Administration finds that the violation does not warrant removal.

(3) *Concealment.* An employee who intentionally falsified information, failed to disclose a material fact or otherwise concealed information to obtain appointment or promotion shall be removed from all eligible lists for a period of time to be determined by the Office of Administration and, if appointed or promoted, be summarily removed.

(f) *Removal.* When the Office of Administration orders the removal of an employee due to the employee's violation of the act or this subpart, the appointing authority shall remove the employee immediately.

(g) *Ineligibility after removal.* When an employee has been found to have intentionally violated Chapter 27 of the act and as a result has been removed from employment in the classified service, the employee shall be ineligible for reappointment to any position in the classified service for a period of time determined by the Office of Administration. In setting the period of ineligibility, the Office of Administration may, in its discretion, determine that permanent ineligibility is appropriate.

CHAPTER 614. PERSONNEL ACTIONS

Sec. 614.1. Personnel actions.
614.2. Notice of personnel actions.
614.3. Signatory authority.

§ 614.1. Personnel actions.

When used in the act or this subpart, the term "personnel action" shall be limited to the following:

- (1) Appointment.
- (2) Promotion.
- (3) Removal, including the removal of a probationary employee before the expiration of the probationary period.
- (4) Suspension.
- (5) Acceptance of resignation.
- (6) Demotion.
- (7) Furlough.

- (8) Transfer.
- (9) Reassignment.
- (10) Leave of absence.
- (11) Extension or reduction of probationary period.
- (12) Compensation changes, except salary increments, general pay increases or special pay for things such as overtime or out-of-class work.
- (13) Performance evaluation.
- (14) Reclassification.
- (15) Return to a position or job classification held prior to promotion.

§ 614.2. Notice of personnel actions.

(a) *Required.* An appointing authority shall provide written notice of a personnel action to the affected employee.

(b) *Content.* A written notice of a removal, furlough, involuntary demotion or suspension issued to a regular employee shall include a clear statement of the reason for the personnel action, sufficient to apprise the employee of the grounds upon which the personnel action is based. A written notice of a removal, furlough, involuntary demotion or suspension shall provide information on the employee's right to appeal the personnel action to the State Civil Service Commission.

(c) *Effective date of personnel action.* Unless otherwise required by the Office of Administration or stated in the notice by the appointing authority, the personnel action will take effect immediately upon the provision of notice to the employee by the appointing authority.

(d) *Simultaneous copy.* When the appointing authority notifies an employee of a furlough or a suspension, it shall simultaneously submit a copy of the notice to the Office of Administration. Copies of other notices of personnel actions shall be provided to the Office of Administration upon request.

(e) *Mandatory requirements.* Except as provided in subsection (f), the requirements in this section are mandatory. Failure to adhere to the notice requirements set forth in this section may nullify the personnel action.

(f) *Acceptance of resignation.* The requirements of this section do not apply to an appointing authority's acceptance of an employee's resignation, which are governed by §§ 612.8—612.10 (relating to resignation).

§ 614.3. Signatory authority.

(a) *Generally.* A notice of personnel action shall be signed by the head of the appointing authority or an authorized designee.

(b) *Authorized designee.* Unless otherwise provided for in writing by the head of an appointing authority, an authorized designee of the head of an appointing authority includes a deputy secretary, a bureau director, an office director, a superintendent, a deputy superintendent or an equivalent position employed by the appointing authority; a human resources director or an equivalent position supporting the appointing authority; or an individual who is delegated signatory authority on behalf of the head of the appointing authority in the manner prescribed by the Office of Administration. For purposes of performance evaluations, an employee's immediate supervisor shall be deemed the authorized designee of the head of the appointing authority without the need for delegation of signatory authority.

(c) *No further delegation.* An authorized designee of the head of an appointing authority may not further delegate signatory authority.

(d) *Rebuttable presumption.* A notice of personnel action bearing the signature of the head of the appointing authority or an authorized designee shall create a rebuttable presumption that the head of the appointing authority or the authorized designee signed the notice and had the proper authority to issue the notice.

CHAPTER 615. PRACTICE AND PROCEEDINGS BEFORE THE OFFICE OF ADMINISTRATION

Subchap.

A. GENERAL PROVISIONS

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

C. LIST CANCELLATION HEARINGS

Subchapter A. GENERAL PROVISIONS

Sec.	
615.1.	Applicability of General Rules of Administrative Practice and Procedure.
615.2.	Public access.
615.3.	Presiding officer.
615.4.	Computation of time.
615.5.	Filings with Docket Clerk.

§ 615.1. Applicability of General Rules of Administrative Practice and Procedure.

This chapter is intended to supersede 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The General Rules of Administrative Practice and Procedure are not applicable to activities of and proceedings before the Office of Administration.

§ 615.2. Public access.

Hearings scheduled by the Office of Administration under its authority under the act shall be open to the public. Notices of public hearing shall be published by the Office of Administration on its publicly accessible web site.

§ 615.3. Presiding officer.

(a) Hearings scheduled by the Office of Administration under its authority under the act shall be conducted by a presiding officer designated in writing by the Secretary of Administration.

(b) Subsection (a) supersedes 1 Pa. Code § 35.185 (relating to designation of presiding officers).

§ 615.4. Computation of time.

(a) When any period of time is referred to in this chapter, the period of time in all cases shall be so computed as to exclude the first and include the last day of the specified period of time. Whenever the last day of a specified period of time shall fall on Saturday, Sunday or a legal holiday under the laws of the Commonwealth or the United States, the last day shall be omitted from the computation.

(b) Subsection (a) supersedes 1 Pa. Code § 31.12 (relating to computation of time).

§ 615.5. Filings with Docket Clerk.

(a) *Generally.* When a document is required to be filed with the Docket Clerk, the filing shall occur within the applicable time limits, if any, by first class mail or electronic mail. The Office of Administration shall indicate the mailing address and electronic mail address of the Docket Clerk on its publicly accessible web site.

(b) *Mail.* When a document is filed with the Docket Clerk by first class mail, the date of mailing, as evidenced by the United States Postal Service postmark on the

envelope containing the filing, a United States Postal Service Form 3817 (Certificate of Mailing) or another similar United States Postal Service form from which the date of deposit with the United States Postal Service can be determined, shall be deemed the date of filing.

(c) *Electronic mail.* When a document is filed with the Docket Clerk by electronic mail, the date of receipt recorded by the Docket Clerk's electronic mail system shall be deemed the date of filing. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Supersession.* Subsections (a)–(c) supersede 1 Pa. Code §§ 31.5(a), 31.11 and 33.34 (relating to communications and filings generally; timely filing required; and date of service).

Subchapter B. HEARINGS UNDER SECTION 2202(a)(10) OF THE ACT

Sec.	
615.6.	Order to show cause.
615.7.	Answer to order to show cause.
615.8.	Representation.
615.9.	Consolidation of proceedings.
615.10.	Severance of proceedings.
615.11.	Notice of hearing.
615.12.	Continuances.
615.13.	Subpoenas.
615.14.	Authority of presiding officer.
615.15.	Form of hearings.
615.16.	Failure to attend hearing.
615.17.	Additional hearings and evidence.
615.18.	Record of proceedings.
615.19.	Post-hearing brief.
615.20.	Proposed decision and order.
615.21.	Exceptions.
615.22.	Brief opposing exceptions.
615.23.	Further response or pleading.
615.24.	Final decision and order.

§ 615.6. Order to show cause.

(a) *Generally.* The Office of Administration shall commence a proceeding under 71 Pa.C.S. § 2202(a)(10) (relating to duties of Office of Administration) through the filing of a verified order to show cause with the Docket Clerk. The individual against whom the order to show cause is filed shall be deemed the respondent.

(b) *Content.* An order to show cause must set forth with specificity the grounds for the proceeding, including a concise statement of the relevant factual allegations, matters of law and a request for relief.

(c) *Entry of Appearance.* An order to show cause filed under this section shall be accompanied by an entry of appearance for the attorneys and legal interns representing the Office of Administration in the proceeding.

(d) *Service.* On the date of filing, the Office of Administration shall simultaneously serve a copy of the order to show cause on the respondent by first class mail. The date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk). The Office of Administration shall include with its order to show cause a certificate of service indicating proper service on the respondent.

(e) *Supersession.* Subsections (a), (b) and (d) supersede 1 Pa. Code §§ 33.31, 35.14 and 35.121 (relating to service by the agency; orders to show cause; and initiation of hearings). Subsection (c) supersedes 1 Pa. Code § 31.24(b) (relating to notice of appearance).

§ 615.7. Answer to order to show cause.

(a) *Generally.* A respondent shall file with the Docket Clerk an answer to the order to show cause within 20 days of the date of service indicated on the certificate of service accompanying the order to show cause.

(b) *Content.* An answer shall specifically admit or deny the allegations presented in the order to show cause, set forth the facts upon which the respondent relies and state concisely the relevant matters of law. General denials of the allegations contained in the order to show cause will not be considered as complying with this section and may be deemed a basis for entry of a proposed decision and order without a hearing, unless otherwise required by the act, on the ground that the response has raised no issues requiring a hearing or further proceedings.

(c) *Service.* On the date of filing, a respondent shall simultaneously serve a copy of the answer on the Office of Administration's legal counsel by first class mail at the mailing address indicated in the order to show cause, unless the Office of Administration agrees to accept service by electronic mail. A respondent shall include with their answer a certificate of service indicating proper service on the Office of Administration. The following apply:

(1) When an answer is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When an answer is served by electronic mail, the date of receipt recorded by the Office of Administration's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Failure to file answer.* A respondent failing to file an answer with the Docket Clerk within the time allowed shall be deemed in default, and relevant facts stated in the order to show cause may be deemed admitted and provide a basis for entry of a proposed decision and order without a hearing, unless otherwise required by the act, on the ground that the response has raised no issues requiring a hearing or further proceedings.

(e) *Supersession.* Subsections (a), (b) and (d) supersede 1 Pa. Code § 35.37 (relating to answers to orders to show cause) and subsection (c) supersedes 1 Pa. Code § 33.32 (relating to service by a participant).

§ 615.8. Representation.

(a) A respondent appearing before the Office of Administration may do so on their own behalf or may be represented by an attorney licensed to practice law in this Commonwealth or a legal intern certified by the Supreme Court of Pennsylvania. An appointing authority shall be represented by an attorney licensed to practice law in this Commonwealth or a legal intern certified by the Supreme Court of Pennsylvania. Attorneys and legal interns shall file with the Docket Clerk an entry of appearance with the Office of Administration.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.21–31.24.

§ 615.9. Consolidation of proceedings.

(a) The Office of Administration may consolidate two or more proceedings at its discretion where the proceedings

involve a common question of law or fact, provided that consolidation does not prejudice any party to the proceedings.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.45 and 35.122 (relating to consolidation; and consolidation of formal proceedings).

§ 615.10. Severance of proceedings.

The Office of Administration may sever two or more proceedings at its discretion where the proceedings lack a common question of law or fact, provided that severance does not prejudice any party to the proceedings.

§ 615.11. Notice of hearing.

(a) The Office of Administration shall provide the parties advance notice of a scheduled hearing. The notice will contain a statement of the matters to be addressed at the hearing, as well as specific instructions regarding the date, time and place of hearing.

(b) Subsection (a) supersedes 1 Pa. Code § 35.121 (relating to initiation of hearings).

§ 615.12. Continuances.

The presiding officer may, upon a showing of good cause, grant a request for a continuance of a scheduled hearing. The requests shall be submitted as far in advance of the scheduled hearing date as possible, be made in writing and must state the specific reason for the continuance request. A copy of a request for a continuance shall be simultaneously served on the non-requesting party.

§ 615.13. Subpoenas.

(a) *Procedure for requesting subpoena.*

(1) A subpoena for the attendance of witnesses or for the production of documents will be issued only upon written request to the presiding officer, with a copy to the non-requesting party. Notwithstanding the forgoing, the presiding officer may, by their own motion, issue a subpoena for the attendance of witnesses or the production of documents.

(2) A written request shall specify the relevance of the testimony or documentary evidence sought. For documentary evidence, the request must specify, to the extent possible, the documents desired and the facts to be proved thereby.

(3) A subpoena for new or additional witnesses will not be issued after a hearing has been started and continued unless orally requested on the record at the hearing and approved by the presiding officer; except that subpoenas issued prior to the start and continuance of the hearing may be reissued upon written request.

(4) Failure to adhere to the requirements of this subsection may result in the refusal to issue the requested subpoena.

(b) *Service of subpoena.*

(1) A subpoena for the attendance of a witness must be personally served on the witness at least 48 hours prior to the hearing, unless the witness agrees to waive the 48-hour requirement.

(2) A subpoena for the production of documents may be served personally, by mail or by electronic means upon the individual in possession of the documents, the legal counsel for the entity or individual in possession of the documents, or the designated custodian of the documents. A subpoena for the production of documents shall be served no later than 10 business days prior to hearing.

(3) Failure to adhere to the requirements of this subsection may result in a ruling by the presiding officer denying the enforceability of the subpoena.

(c) *Enforcement of subpoena.*

(1) If the subject of a subpoena fails or refuses to comply with the terms of the subpoena, the subpoenaing party may file with the Docket Clerk a request for enforcement.

(2) If the presiding officer determines that the testimony or documentary evidence sought through the subpoena is probative of a material fact or issue relevant to the proceeding, the Secretary of Administration, or their designee, will petition a court of record for enforcement of the subpoena in accordance with 71 Pa.C.S. § 2202(c) (relating to duties of Office of Administration).

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code §§ 35.142 and 35.145—35.152 (relating to subpoenas; and depositions).

§ 615.14. Authority of presiding officer.

(a) A presiding officer has the discretionary authority to do the following:

(1) Determine the order of procedure.

(2) Regulate the conduct of hearings, including the scheduling, recessing, reconvening and adjournment, and to do acts and take measures necessary or proper for the efficient conduct of hearings.

(3) Administer oaths and affirmations.

(4) Receive evidence.

(5) Rule upon offers of proof and evidentiary objections.

(6) Hold appropriate conferences before or during hearings and order the parties to submit memoranda in advance of the conference.

(7) Dispose of procedural requests, including discovery or similar matters.

(8) Specify the manner in which pleadings are to be submitted to the presiding officer, including the format and contents of these documents.

(9) Require that the parties, prior to the hearing, submit witness lists or lists of documents, or both, to be presented at the hearing.

(10) Take other actions as necessary and appropriate to discharge the presiding officer's vested duties, consistent with statutory and regulatory authority.

(b) Subsection (a) supersedes 1 Pa. Code Chapter 35, Subchapter E (relating to presiding officers).

§ 615.15. Form of hearings.

(a) A hearing before the Office of Administration shall be formal but need not adhere to the technical rules of evidence or procedure. In cases involving issues of fact, oral testimony shall be under oath or affirmation.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.123 and 35.189 (relating to conduct of hearings; and manner of conduct of hearings).

§ 615.16. Failure to attend hearing.

When a properly notified party fails to appear at a hearing, the hearing may be held without the participation of the nonappearing party and, thereafter, the presiding officer may take appropriate action consistent with this subchapter.

§ 615.17. Additional hearings and evidence.

(a) After the conclusion of a hearing, but prior to the issuance of a final disposition, the presiding officer may, upon their own motion or upon request of a party, allow one or more additional hearings or the submission of additional relevant evidence.

(b) Subsection (a) supersedes 1 Pa. Code § 35.128 (relating to additional evidence).

§ 615.18. Record of proceedings.

(a) A complete stenographic record of the proceedings shall be made. A party shall make arrangements to purchase copies of the record directly with the reporting service. The Office of Administration's copy of the record may be reviewed at the Office of Administration's office in Harrisburg. Arrangements to review the record may be made by contacting the Docket Clerk.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.131 and 35.133 (relating to recording of proceedings; and copies of transcripts).

§ 615.19. Post-hearing brief.

(a) *Generally.* At the close of the proceedings, or as directed by the presiding officer, each party will be given the opportunity to file a legal brief in support of their position.

(b) *Briefing schedule.* The presiding officer will set forth a briefing schedule and the order in which the briefs shall be filed. The briefs shall be filed with the Docket Clerk.

(c) *Content of brief.* A post-hearing brief does not need to conform to a specific format but must include the following:

(1) A statement of the facts supporting the party's position, with citation to the relevant exhibits and pages of the transcript.

(2) A discussion of the arguments supporting the party's position, including citation to relevant statutes, regulations and case law.

(d) *Service.* On the date of filing, a party shall simultaneously serve a copy of the brief on the opposing party by first class mail, unless the parties mutually agree to accept service by electronic mail. A party shall include with their brief a certificate of service indicating proper service on the opposing party. The following apply:

(1) When a brief is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When a brief is served by electronic mail, the date of receipt recorded by the opposing party's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code Chapter 35, Subchapter F (relating to briefs).

§ 615.20. Proposed decision and order.

(a) *Generally.* Upon the closing of the record, the presiding officer shall issue a proposed decision and order, based on the established record, which will be provided to the parties and filed with the Docket Clerk.

(b) *Content.* The proposed decision and order shall contain a statement of the following:

(1) Findings and conclusions, as well as the reasons or basis therefor, resolving all the material issues of credibility, fact and law presented on the record.

(2) An appropriate order, sanction, relief or denial.

(c) *Finality.* A proposed decision and order shall be deemed a final order of the Office of Administration upon the expiration of 20 calendar days from the date of issuance, unless exceptions are timely and properly filed in accordance with § 615.21 (relating to exceptions).

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code §§ 31.13, 35.201—35.207 and 35.226.

§ 615.21. Exceptions.

(a) *Generally.* A party aggrieved by the proposed decision and order may, within 20 days after the issuance of the proposed decision and order, appeal to the Secretary of Administration, by filing with the Docket Clerk exceptions to the proposed decision and order, or part of it, in the form of a brief on exceptions.

(b) *Content.*

(1) A brief on exceptions shall, at a minimum:

(i) State the specific issues of procedure, fact or law, or other portion of the proposed decision and order to which each exception is taken.

(ii) Identify the page or part of the proposed decision and order to which each exception is taken.

(iii) Designate by page citation or exhibit number the portions of the record relied upon for each exception.

(2) A brief on exceptions may include specific findings and conclusions proposed in lieu of those to which exception is taken and any proposed additional findings and conclusions.

(c) *Service.* On the date of filing, a party shall simultaneously serve a copy of the brief on exceptions on the opposing party by first class mail, unless the parties mutually agree to accept service by electronic mail. A party shall include with their brief on exceptions a certificate of service indicating proper service on the opposing party.

(1) When a brief on exceptions is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When a brief on exceptions is served by electronic mail, the date of receipt recorded by the opposing party's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Waiver.* A party's failure to file with the Docket Clerk a brief on exceptions within the time allowed under this section shall constitute a waiver of all objections to the proposed decision and order. Objections to any part of a proposed decision and order that are not included in a party's brief on exceptions shall be deemed waived.

(e) *Supersession.* Subsection (a) supersedes 1 Pa. Code §§ 35.190(a) and 35.211 (relating to appeals to agency head from rulings of presiding officers; and procedure to

except to proposed report), subsections (b)—(d) supersede 1 Pa. Code §§ 35.211 and 35.212(a)(1) (relating to content and form of briefs on exceptions) and subsection (d) supersedes 1 Pa. Code § 35.213 (relating to effect of failure to except to proposed report).

§ 615.22. Brief opposing exceptions.

(a) *Generally.* In response to a brief on exceptions, a party may file with the Docket Clerk a brief opposing exceptions within 20 days of date of service of the brief on exceptions.

(b) *Content.* A brief opposing exceptions shall, at a minimum, respond to the arguments contained in the brief on exceptions.

(c) *Service.* On the date of filing, a party shall simultaneously serve a copy of the brief opposing exceptions on the opposing party by first class mail, unless the parties mutually agree to accept service by electronic mail. A party shall include with their brief opposing exceptions a certificate of service indicating proper service on the opposing party. The following apply:

(1) When a brief opposing exceptions is served by first class mail, the date of mailing shall be deemed the date of service and shall be determined in the manner set forth in § 615.5(b) (relating to filings with Docket Clerk).

(2) When a brief opposing exceptions is served by electronic mail, the date of receipt recorded by the opposing party's electronic mail system shall be deemed the date of service. A party filing a document by electronic mail is responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the risk that the document may not be properly or timely filed.

(d) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.212(a) and (b) (relating to content and form of briefs on exceptions).

§ 615.23. Further response or pleading.

After the filing of a brief opposing exceptions, or the expiration of the time period for filing a brief opposing exceptions, whichever occurs first, no further response or pleading by any party will be entertained unless the Secretary of Administration, or their designee, with or without motion, so orders.

§ 615.24. Final decision and order.

(a) After reviewing the record, including any briefs on exceptions and briefs opposing exceptions, the Secretary of Administration, or their designee, shall issue a final decision and order, which will be provided to the parties and filed with the Docket Clerk. The Secretary of Administration, or their designee, may affirm, modify or reverse the findings of credibility and fact, the conclusions of law and the decision of the presiding officer as the Secretary of Administration deems appropriate on the basis of all of the record evidence.

(b) Subsection (a) supersedes 1 Pa. Code § 35.226(a) (relating to final orders).

Subchapter C. LIST CANCELLATION HEARINGS

Sec.
615.25. Generally.
615.26. Notice of list cancellation hearing.

615.27. Format of hearing.
615.28. Record of proceedings.
615.29. Notice of list cancellation.

§ 615.25. Generally.

(a) Under 71 Pa.C.S. § 2307(d) (relating to duration of eligible lists), the Office of Administration will hold a hearing before cancelling the whole or a part of an eligible list due to illegality or fraud in connection with the eligible list. The hearings shall be referred to as "list cancellation hearings."

(b) Subsection (a) supersedes 1 Pa. Code § 35.121 (relating to initiation of hearings).

§ 615.26. Notice of list cancellation hearing.

(a) The Office of Administration shall provide advance notice of a list cancellation hearing to those eligibles whose names appear on the relevant list. The notice will contain a statement of the matters to be addressed at the hearing, as well as specific instructions regarding the date, time and place of hearing. Additionally, the notice will provide instructions on how an eligible can submit to the Office of Administration written objections concerning the list cancellation.

(b) Subsection (a) supersedes 1 Pa. Code § 35.121 (relating to initiation of hearings).

§ 615.27. Format of hearing.

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

(b) Subsection (a) supersedes 1 Pa. Code § 35.123 (relating to conduct of hearings).

§ 615.28. Record of proceedings.

(a) A complete stenographic record of the proceedings shall be made. Individuals may arrange to purchase copies of the record directly with the reporting service. The Office of Administration's copy of the record may be reviewed at the Office of Administration's office in Harrisburg. Arrangements to review the record may be made by contacting the Docket Clerk.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.131 and 35.133(a) and (b) (relating to recording of proceedings; and copies of transcripts).

§ 615.29. Notice of list cancellation.

If, after holding a list cancellation hearing, the Office of Administration determines that cancellation of the whole or a part of an eligible list is warranted due to illegality or fraud in connection with the eligible list, the Office of Administration shall provide notice of the cancellation of the list to those eligibles whose names appeared on the relevant list.

[Pa.B. Doc. No. 24-1077. Filed for public inspection August 2, 2024, 9:00 a.m.]

