

# MUNICIPAL FIRE AND POLICE CIVIL SERVICE



## QUICKSTART For Appointing Authorities

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## **EMPLOYMENT IN THE CLASSIFIED FIRE AND POLICE SERVICES**

The Fire and Police Civil Service Law provides that permanent appointments and promotions for paid firefighters and police officers in the classified civil service shall be made only after certification pursuant to a general system based upon merit, efficiency, fitness, and length of service, under which certificates shall be based on examinations, which, so far as practicable, shall be competitive, and all employees in the classified service shall be employed from those eligible under such certification. (La. Const. 1974, Art. X, §17, LSA-R.S. 33:2531.)

Vacancies in positions of the classified service must be filled by the following methods:

1. Demotion
2. Transfer
3. Reinstatement
4. Reemployment
5. Promotional appointment
6. Competitive appointment
7. Temporary appointment

### **DEMOTION**

A demotion is a change in employment from a position of one class to a position of a lower class which generally affords less responsibility and pay. Demotions can result from a disciplinary actions, when an employee fails a working test, when it becomes necessary to reduce the number of employees in the classified service or in any class, or on a voluntary basis.

#### **DISCIPLINARY DEMOTIONS**

When the appointing authority determines that an employee's action rises to the level warranting discipline, one method of discipline is through demotion. The appointing authority can disciplinary demote someone from their current class to any lower level class below with the prevailing rate of pay for that class.

#### **DEMOTIONS OTHER**

##### **Failing Working Test Period**

An employee who is demoted as the result of failing a working test must be reinstated in the position that he or she held as a regular and permanent employee immediately preceding promotion. Those who fail the working test are not placed on a reinstatement list and are no longer eligible for promotion. Such employees must reapply and test again to become eligible for another promotional opportunity.

## **Layoffs**

A layoff in the fire or police service can result in someone being demoted. The Fire and Police Civil Service Law provides that when a reduction in force is necessary, layoffs must be made from the lowest class in the classified service, or the lowest class in a group of classes in the classification plan in the order of total departmental seniority, from lowest to highest. If the number of people in the lowest class cannot reach the budgetary needs of the service or services must be provided at the lower class, the appointing authority will demote people in the order of total departmental seniority, from lowest to highest.

As demotions are made, the employees' names are placed upon a reinstatement list for the appropriate class of positions, so that as positions are restored, they must be filled from the appropriate list in seniority order.

## **DEMOTIONS VOLUNTARY**

The appointing authority may approve an employee's request for voluntary demotion. If approved, the employee's name shall be placed on a reinstatement list for the class from which the employee demoted for up to four (4) years. The Attorney General has opined that a voluntary demotion may be made even if a promotional eligibility list exists, provided the employee at one time held the class to which he has requested demotion. If the employee was not confirmed in the class, he must serve a working test period from six (6) months to one year.

## **TRANSFER**

A transfer is the lateral movement of an employee between positions of the same class. Transfers may be made anytime at the discretion of the appointing authority. The appointing authority is not required to notify the Board, or to receive the Board's approval. An employee has the right to appeal the transfer. If the employee was moved to a position that is not within the same class, is not in the classified service, or was made deliberately to discriminate against the employee.

## **REINSTATEMENT**

A reinstatement is the act of placing an employee in a position to which he had been appointed immediately preceding a demotion for a non-disciplinary reason. The Board may remove the name of any person who declines an offer of reinstatement.

## **RE-EMPLOYMENT**

Re-employment is the act of filling vacancies in the entrance or lowest ranking class in the classified service, or in any group of classes, by employing persons who had been laid-off because their class of positions were overburdened, and who were regular and permanent employees at the time of their lay-off. Re-employment shall be made from the names of

persons placed upon the re-employment list, and in reverse order in which each employee was laid-off. The Board may remove the name of any person who declines an offer of re-employment or;

If the appointing authority wishes to re-employ a person who has voluntarily separated (resigned or retired) from the service, he must have prior approval of the Board.

If a confirmed employee who has resigned or retired as a result of the employee being unable to perform the essential functions of his job after sustaining an injury or developing a medical condition during the course and scope of his employment seeks to be re-employed, he shall be re-employed in a position of the class in which he was employed immediately preceding his resignation or retirement. If there is no available position in the former class, he may be temporarily placed in a position of a lower class; however, he shall receive the same rate of pay, including longevity pay, that he would otherwise have received for the position to which he was to be re-employed. During his temporary placement in the lower class, his name shall be placed first on the eligibility list for a position in the former class without the necessity to re-test. His name shall remain first on such list until he is appointed to his former class.

Prior to re-employment, the employee must give notice to the appointing authority that he is able to return to work. With such notice, the employee must include authorization from his treating physician certifying that he is able to perform the essential functions of his position at the time he was originally confirmed upon furnishing the notice. The employee shall be deemed qualified for the position. He shall return as a permanent employee and shall not be required to serve a working test. The employee shall return with all departmental and promotional seniority, including any seniority that he would have accumulated had there been no break in service. If the appointing authority has reason to dispute the employee's treating physician's certification, the appointing authority may have the employee evaluated for the limited purpose of confirming that his injury or medical condition no longer prevents him from performing the essential functions of his job. If the two physicians disagree, they shall select a third physician whose opinion shall be determinative.

### **Fire Service only**

A permanent employee who retired from a position in the fire service, as a result of an injury or medical condition which prevents him from performing the essential functions of his job, seeks re-employment shall be re-employed in the class for which he held immediately preceding his retirement. If there is no available position in his former class, he may be temporarily placed in any lower class. However, he shall receive the same rate of pay, including longevity pay, that he would have received in his former class. His name shall be placed first on the eligibility list for his former class and he shall not be required to re-test.

Prior to re-employment, the employee must give notice to the appointing authority that he is able to return to work. With such notice, the employee must include authorization from his treating physician certifying that he is able to perform the essential functions of his position at the time he was originally confirmed upon furnishing the notice. The employee

shall be deemed qualified for the position. He shall return as a permanent employee and shall not be required to serve a working test. The employee shall return with all departmental and promotional seniority, including any seniority that he would have accumulated had there been no break in service. If the appointing authority has reason to dispute the employee's treating physician's certification, the appointing authority may have the employee evaluated for the limited purpose of confirming that his injury or medical condition no longer prevents him from performing the essential functions of his job. If the two physicians disagree, they shall select a third physician whose opinion shall be determinative.

## **COMPETITIVE APPOINTMENT**

Competitive appointments are made in the classified service for classes comprising the following duties and positions:

1. Fire Chief and Police Chief
2. Entrance or lowest ranking class in any group of classes;
3. Communications Officer or Dispatcher;
4. Automotive or fire apparatus mechanic;
5. Secretary to the Chief;
6. Departmental Records Clerk.

When the appointing authority proposes to fill a vacancy in a position of a competitive class, anyone whose name has been certified as eligible from a competitive employment list may be selected to fill a vacancy in that respective competitive class. Selection is made without consideration of seniority, and may be made from among a list of persons who have no previous experience with the department for which the test has been given. Civil service law contemplates that persons receiving scores of 75% or more are equally qualified to be considered by the appointing authority for appointment. Of course, the appointing authority may use other selection criteria (interviews and background checks, for example) to make his decision.

## **PROMOTIONAL APPOINTMENT**

Civil service law requires that a vacancy in a promotional class must be filled by the selection of the person having the greatest departmental seniority or promotional seniority in the next lower class of positions.

## **TEMPORARY APPOINTMENT**

There are three categories of temporary appointments under the Fire and Police Civil Service Law: Provisional, Substitute, and Emergency Appointments. The appointing authority is not required to make temporary appointments; however, if such an appointment is necessary, there are provisions of law which must be followed for each type. Persons appointed to serve in temporary appointments generally do not accrue any permanency in the positions to which they have been appointed.

### **Provisional Appointment:**

A provisional appointment is a type of temporary appointment in the classified service that may be made by the appointing authority when a bona fide vacancy occurs and there is no employment eligibility list from which a permanent appointment may be made. Except for firefighter, police officer, jailer departmental records clerk, secretary to the chief, fire communications officer and police communications officer, provisional appointments may be made for three (3) months and may be renewed for an additional three (3) months.

Provisional appointments for firefighter, police officer, jailer, departmental records clerk, secretary to the chief, fire communications officer and police communications officer may be made for sixty (60) days and cannot be renewed.

Provisional appointments are also made when a new class is proposed by the appointing authority. Such provisional appointments do not terminate until the Board adopts the class and allocates the position to the appropriate class.

### **Substitute Appointment:**

Substitute appointments may be made to positions from which the permanent employee is away from his or her position on authorized leave of absence, or when an employee is substituting in another position. Whenever a substitute appointment may be required in a position from which the incumbent will be absent for less than thirty (30) days, the appointing authority may select anyone considered qualified. However, when an absence will be for thirty (30) days or more, and the position to be filled is promotional, the appointment must be made in the same manner as a permanent appointment.

### **Emergency Appointment:**

Emergency appointments may be made during local emergencies of a temporary or special nature. Such appointments may be made only for the duration of up to ninety (90) days, but in any case, they shall be terminated upon the conclusion of the emergency period. When a state of emergency is declared by the governor, the appointments shall be effective for the duration of the state of emergency.

## **EXAMINATIONS**

### **Competitive Exams**

ACT 38 of the 2020 Legislative Session and ACT 230 of the 2024 Legislative Session provide that the Office of State Examiner establish and maintain competitive eligibility lists for the classes of entrance Firefighter, entrance Police Officer, entrance Jailer, Secretary to the Chief, Departmental Records Clerk, Fire Communications Officer and Police Communications Officer. These exams will be called for and scheduled by the OSE. For these competitive exams, persons who receive a passing score on any of these exams will have their

names placed on the statewide eligibility list. The OSE suggests each department has its own application and process for individuals seeking employment.

### **Other Exams**

The civil service board receives applications for all other exams. The appointing authority shall receive applications from the civil service board when seeking to fill vacancies. When the appointing authority seeks to fill a permanent vacancy in a promotional class, the appointing authority shall ask the board for the promotional eligibility list.

## **CERTIFICATION AND APPOINTMENT**

Permanent appointments in the classified fire and police civil service system must be made from a certified eligibility list received from the local civil service board. Once certified, the appointing authority must fill vacancies in promotional classes by offering the appointment according to the person with the greatest departmental or promotional seniority. Other vacancies to be filled from the respective promotional position must be offered in the order of seniority, from highest to lowest, until all vacancies have been filled.

Vacancies that occur in positions of competitive classes may be filled by offering an appointment to any person whose name appears upon the eligibility list.

## **PERSONNEL ACTIONS**

The appointing authority is required by law to advise the civil service board, in writing, within fifteen days of all appointments, terminations, resignations, promotions, demotions, layoffs, and disciplinary actions. The civil service board, in turn, reviews the action taken and approves the action if the action was in accordance with civil service law. If a personnel movement was not done in accordance with civil service law, such as the promotion of an employee other than the one with the greatest total departmental seniority, the PAF should be returned, unsigned, to the appointing authority for further consideration and corrective action. Personnel action forms that correctly document employee actions are approved by Board action in open meeting, signed by the Board chairman, and distributed to appropriate parties.

## **THE RECRUIT PERIOD**

A recruit is defined as any person who has been appointed from an entry-level employment list for firefighter, firefighter/operator, or police officer, but who has not demonstrated successful completion of formal training that results in possession of Firefighter I certification or Police Officer Standards and Training (POST) certification, respectively. Any person who otherwise possesses such appropriate certification must immediately begin the working test period. The recruit period begins immediately upon



appointment from the employment list and continues for the period of six months or until the appropriate certification is earned, whichever occurs first. Upon completion of the recruit period, the working test period commences immediately. The fact that a recruit fails to obtain the appropriate certification during the six-month recruit period does not require that he or she must be terminated. Rather, the recruit must immediately begin the working test period, during which he or she would be expected to obtain the appropriate certification.

## **THE WORKING TEST**

Following every appointment to a permanent position of the classified service, whether the position is promotional or competitive, the appointee must immediately begin a working test. The working test period is commonly referred to as the “probationary period,” wherein the appointing authority evaluates the ability of the employee to successfully perform the duties of the position to which the employee has been appointed. The working test period is limited to a period from six (6) months to one year. At the end of the working test period, the appointing authority should either confirm the employee as a regular employee of the class, reject the employee and return to him to his previously held position, or remove him from the service if in an entry level competitive class.

There are differences in how probational employees are treated in the first six months of the working test period depending on whether or not the employee is serving in a position of a competitive class or a position of a promotional class. These differences are explained below:

### **The Fire Service**

Except for employees who are appointed to an entry level position of firefighter, or an entry level position of fire communications officer (dispatcher), no probational employee who has served less than six months in a working test for any given position may be rejected from the working test unless the Board grants prior approval. Grounds for rejecting such an employee are limited only to 1) the employee’s inability or unwillingness to perform satisfactorily the duties of his position, or, 2) his habits and dependability do not merit the employee’s continuance in the position. An employee for whom the appointing authority seeks such approval has the right to appear before the Board to state reasons in opposition to his removal.

The appointing authority is not required to obtain Board approval or to give reasons to the Board for rejecting probational firefighters or fire communications officers during the first six months of the working test.

Any time after a 6 month working test period has been served, the appointing authority may reject the employee for any reason. The appointing authority is required to notify the employee of its refusal to confirm the employee and the reasons why. The employee may appeal to the Board, but only on the grounds that they were not given fair opportunity to prove their ability to satisfactorily perform the job. If the appointing authority fails to confirm or reject the employee, such failure to act constitutes a confirmation and the employee becomes a regular and permanent employee by operation of the law.

## **The Police Service**

Except for employees who are appointed to an entry level position of police officer, or to an entry level position of police communications officer (dispatcher), no probational police employee who serves in a position of a competitive class may be rejected during the first six months in the working test, unless the Board has granted prior approval to the appointing authority.

Additionally, no probational police employee who serves in a position of a promotional class may be rejected during the first three months of the working test without prior approval of the Board. In either case, the grounds for rejecting such an employee are limited only to 1) the employee's inability or unwillingness to perform satisfactorily the duties of his position, or, 2) his habits and dependability do not merit the employee's continuance in the position. An employee for whom the appointing authority seeks such approval has the right to appear before the Board to state reasons in opposition to his removal.

The appointing authority is not required to obtain Board approval or to give reasons to the Board for rejecting probational police officers or police communications officers.

Any time after a working test period has been served, the appointing authority may reject an employee from the working test for any reason. Such employees may appeal to the Board, but only on the grounds that they were not given fair opportunity to prove their ability to satisfactorily perform the job. The appointing authority is required to notify the employee of its refusal to confirm the employee and the reasons for the refusal to confirm. If the appointing authority fails to confirm or reject the employee, such failure to act constitutes a confirmation and the employee becomes a regular and permanent employee by operation of the law.

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