

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL**

TRANSMITTAL MEMORANDUM NO. 60

<u>PAGES ATTACHED</u>	<u>CODE</u>	<u>NO. OF PAGES</u>
0600 Jurisdictional Classification	0600	8

PAGES IN MANUAL TO BE DESTROYED

0600 Jurisdictional Classification	0600	7
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SUMMARY OF REVISIONS OR NEW MATERIAL

In 2005 Section 0600 was revised. The revisions appeared in the online State Personnel Management Manual (SPMM). Please replace any hardcopy versions of Section 0600 dated prior to July 2007 with the attached pages (TM-60).

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

Table of Contents – Reissued July 2007

<u>CODE</u>	<u>TOPIC</u>	<u>PAGES</u>	<u>ISSUED</u>
0610	Introduction – The Organization of the Civil Service of the State	1	7/07
0620	Classified Civil Service	1-3	7/07
0630	Jurisdictional Classification Procedures	1-2	7/07
0640	Status of Employees in Positions which are Jurisdictionally Reclassified	1	7/07

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

0610 Introduction – The Organization of the Civil Service of the State

Page 1

.1 BACKGROUND

.110 Article 5, Section 6 of the New York State Constitution

.111 Article 5, Section 6 of the New York State Constitution was adopted by the People of the State at the Constitutional Convention of 1894. It directs that initial appointments and promotions to positions in the Classified Service of the State and political subdivisions shall be filled pursuant to examination which, insofar as practicable, shall be competitive. Thus, all Classified Service positions are presumptively in the Competitive Jurisdictional Class, unless classified otherwise by the Civil Service Commission.

.120 Classified and Unclassified Services

.121 The Civil Service Law expands upon the constitutional prescriptive with a framework for the organization of the Civil Service. Section 35 of the Civil Service Law divides the Civil Service into the Classified and Unclassified Services.

.122 Section 40 of the Civil Service Law defines the Classified Service as all positions not in the Unclassified Service. Positions in the Classified Service are further divided into four (4) jurisdictional classes: Competitive, Non-competitive, Exempt, and Labor. The classification of positions in these jurisdictional categories by the Civil Service Commission determines the scope of the Competitive Class of the Classified Service. This activity of the Civil Service Commission should not be confused with position classification, as defined in Section 118 of the Civil Service Law. However, the processes are of necessity inter-twined and determinations in both activities form the basis for Statewide title plan management (SPMM Section 0800).

.123 The Unclassified Service is legislatively defined. It includes positions such as elected officials, department and agency heads, and all academic personnel in public schools, colleges, and universities.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

0620 Classified Civil Service

Page 1

.1 BACKGROUND

.110 Competitive Jurisdictional Class (Competitive Class)

.111 Section 44 of the Civil Service Law provides for the Competitive Class.

.120 Non-competitive Jurisdictional Class (Non-competitive Class)

.121 Section 42(1) of the Civil Service Law provides that the Non-competitive Class shall include all positions which are not in the Exempt Class or the Labor Class, for which the Civil Service Commission finds it is not practicable to ascertain the merit and fitness of applicants by competitive examination. All positions in the Non-competitive Class must have minimum qualifications required for appointment.

.122 In accordance with Rule 2.2 of the Rules for the Classified Service, positions in the Non-competitive Class are listed in Appendix 2 of the Rules. The Appendix is maintained by the Office of Commission Operations. The addition or deletion of a title to the Exempt Class requires approval of the Governor.

.123 The Civil Service Commission may designate in Appendix 2 the specific number of positions in a particular title which are in the Non-competitive Class. If no limiting number is shown after a title, then all positions under that title are in the Non-competitive Class.

.124 Section 42(2)(a) of the Civil Service Law directs that the Civil Service Commission designate positions in the Non-competitive Class which are confidential or require the performance of functions influencing policy. Such positions are not tenure bearing (Section 75(1)(c) of the Civil Service Law) and are identified in Appendix 2 with the symbol "ϕ" (Rule 2.2(c)).

.130 Exempt Jurisdictional Class (Exempt Class)

.131 Section 41(1) of the Civil Service Law identifies public officers and positions which shall be in the Exempt Class and provides that the Exempt Class shall include "all other offices or positions for which the Civil Service Commission has determined it is not practicable to fill by competitive or non-competitive examination." Such positions are not tenure bearing.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

0620 Classified Civil Service

Page 2

- .132 In accordance with Rule 2.1 of the Rules for the Classified Service, positions in the Exempt Class are listed in Appendix 1 of the Rules. The Appendix is maintained by the Office of Commission Operations. The addition or deletion of a title to the Exempt Class requires approval of the Governor.
- .133 Only one (1) position in a particular title in a particular agency can be officially in the Exempt Class unless a different number is indicated specifically in Appendix 1.
- .134 When a vacancy occurs in an Exempt Class position, the Civil Service Commission is required to study and evaluate the vacant position to determine the proper jurisdictional classification. Pending such determination, the position shall not be filled, except on a temporary basis.
- A. The Division of Classification and Compensation is asked by the Civil Service Commission to comment on the duties and responsibilities of vacant Exempt Class positions. The Division ascertains:
1. The duties of the position. In this regard, the affected agency is contacted to provide the Division of Classification and Compensation information on the current duties and responsibilities of the position.
 2. To which jurisdictional classification are similar positions assigned.
- B. In accordance with a formal Civil Service Commission action, the Office of Commission Operations edits the New York State Electronic Personnel System (NYSTEP) to recognize changes or allow for a new permanent appointment to the vacant exempt class positions.

.140 Labor Jurisdictional Class (Labor Class)

- .143 A title placed in the Labor Class has no limiting numbers.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

0620 Classified Civil Service

Page 3

- .142 In accordance with Rule 2.3 of the Rules for the Classified Service, positions in the Labor Class are listed in Appendix 3 of the Rules. The Appendix is maintained by the Office of Commission Operations. The addition or deletion of a title to the Labor Class does not require approval of the Governor.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

0630 Jurisdictional Classification Procedures

Page 1

.1 BACKGROUND

.110 Statutory Authority

- .111 The Civil Service Commission has the legal authority and responsibility for jurisdictional classification determinations for all positions in the Classified Civil Service of the State. The Civil Service Commission considers information provided by the Department of Civil Service and various State Departments and Agencies when deciding jurisdictional classification issues.
- .112 The jurisdictional classification of positions in the Classified Service of the State has been deemed a rulemaking activity which must be carried-out in accordance with the State Administrative Procedures Act (SAPA).

.2 PROCEDURE

.210 Applications

- .211 When an agency requests a position classification that involves a jurisdictional classification other than Competitive, the agency must submit an electronic New York State Electronic Personnel System (NYSTEP) transaction to the Division of Classification and Compensation that contains the prerequisite documents prescribed in SPMM Section 0850(B) .210 ("Long Form" Transaction). This NYSTEP transaction must contain a document addressed to the President of the Civil Service Commission which the Civil Service Commission will consider in regard to the jurisdictional classification issue [SPMM Section 0850(B), .217].
- .212 When an agency's request does not involve position classification, the jurisdictional classification request should be sent by letter to the Civil Service Commission with a copy to the Division of Classification and Compensation and the Division of Staffing Services.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

0630 Jurisdictional Classification Procedures

Page 2

- .213 To effectuate a jurisdictional classification determination, the Civil Service Commission gives public approval for proposed jurisdictional classification determinations followed by a 45-day minimum public comment period. The public is notified of the proposed action through publication in the State Register. At the end of the comment period, the Civil Service Commission will review its proposed determination and any comments received during the public comment period. If final approval is granted, the Civil Service Commission will adopt a formal resolution, signed by the President of the Commission, and forward same to the Governor for signature. Resolutions approved by the Governor are then filed with the Secretary of State. At this point, the Office of Commission Operations edits the New York State Electronic Personnel System (NYSTEP) to effectuate the actions taken.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
0600 Jurisdictional Classification**

0640 Status Of Employees In Positions Which Are Jurisdictionally Reclassified

Page 1

.1 BACKGROUND

.110 Rights and Benefits

.111 Employees with permanent appointments to positions in the Competitive Class which are subsequently reclassified from the Competitive to the Non-competitive Jurisdictional Class (including Non-competitive Jurisdictional Class positions designated as confidential or policy influencing) are generally accorded the same civil service career rights and benefits as if their positions remained in the Competitive Jurisdictional Class.

.210 Exception

.211 One (1) exception occurs when such affected employees occupy positions that are subsequently abolished in accordance with Section 80(a) rather than Section 80 of the Civil Service Law. For further information, refer to the "Guidelines for the Administration of Reductions in Force" for clarification of tenure, retention, displacement, and reemployment list rights.