

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1200 EXAMINATIONS**

Transmittal Memorandum TM-68

JUNE 2013

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SUMMARY OF REVISIONS OR NEW MATERIAL

- .211 [Requirements] Revised.
- .212 [Requirements] Establishes posting requirement.
- .213 [Requirements] Revises employees and titles that must be considered.
- .221 [Examinations] Revises the requirement for assembled tests.
- .230 [Limitations] Revises eligibility requirements for nominees for NCP.
- .411 [Nominations] Revises nomination requirements.

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.1 BACKGROUND

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.110 Legal Background

- .111 Section 52 (7) provides that when there are no more than three qualified candidates in a promotion field, the appointing authority may nominate one of the candidates for a non-competitive promotion examination; there is no requirement to hold a competitive examination. In determining that there are no more than three qualified candidates in the field for promotion, agencies should first discuss any potential promotion by non-competitive examination with your Staffing Services Representative. The text of section 52 (7), in pertinent part, provides:

Whenever there are no more than three persons eligible for examination for promotion to a vacant competitive class position, or whenever no more than three persons file application for examination for promotion to such position, the appointing officer may nominate one of such persons and such nominee, upon passing an examination appropriate to the duties and responsibilities of the position may be promoted

.2 POLICY

.210 Requirements

- + .211 Promotion by non-competitive examination is in order when the following conditions are met:

- There is no reemployment list for the position to be filled;
- There is no viable department promotion eligible list; and
- There are no more than three qualified candidates in the departmental promotion field interested in competing in an examination for the position to be filled.

If more than one position is to be filled, a non-competitive promotion is still in order if the number of interested candidates in the promotion field does not exceed the number of vacancies to be filled by more than two.

- *.212 In order to determine the composition of the promotion field, agencies must post their intention to pursue a non-competitive examination. The posting must state the agency's intent to pursue a non-competitive promotion should three or fewer qualified candidates in the departmental promotion field indicate interest in the position.

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+ .213 When identifying employees in the promotion field, agencies must consider:

- The current permanent and contingent permanent incumbents of the titles that comprise the promotion field; **and**
- The former permanent and contingent permanent incumbents of the titles that comprise the promotion field who are still employed at or on leave from the agency. Former permanent and contingent permanent incumbents who are on leave from the agency must be contacted directly regarding the vacancy.

NOTE: For purposes of non-competitive examination, the nominating agency need only consider the next lower level, direct line titles as qualifying titles.

.220 Examinations

+ .221 An examination for non-competitive promotion shall consist of a qualifying review of the nominee's qualifications against the minimum qualifications for the position to be filled; assembled tests are not required.

+ .230 Limitations

.231 Nominations for promotion by non-competitive examination will not be approved if the nominee failed to pass the most recent competitive promotion examination for such position, or failed to participate in the most recent competitive promotion examination for such position, of which the nominee was eligible, if such examination was held within the last four years.

.3 INTERPRETATIONS

.310 Limitations

.311 Generally, nominations for promotion by non-competitive examination will not be approved for clerical titles, paraprofessional titles, or titles for which a competitive promotion examination is scheduled within 90 days.

.320 Programmatic Needs

.321 Before requesting promotion by non-competitive examination for titles that have extensive interdepartmental promotion fields and/or interdepartmental promotion eligible lists, agencies are encouraged to consider whether programmatic needs can be satisfied through appointment of an interdepartmental candidate.

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.4 PROCEDURES

.410 Nominations

- + .411** Nominations for promotion by non-competitive examination must be submitted in writing to the Staffing Services Representative for your agency and must include:
1. name of the nominee
 2. item number and title of the position to which promotion is sought
 3. names of all known employees in the promotion field
 4. description of the steps taken by the agency to determine that a non-competitive examination is in order, including a copy of the vacancy posting
 5. completed NYS-APP Examination Application for the nominee
 6. clearance code to ensure no reemployment lists exist

If the promotion field is comprised of more than three candidates, the agency must note for each known candidate whether he/she was interested, not interested, or did not respond.

.420 Department of Civil Service Review

- .421** The Staffing Services Section that has staffing responsibility for the nominating agency has responsibility for reviewing and processing the nomination for non-competitive promotion.

.430 Notice of Results

- .431** The nominating agency will be sent the results on Form S-121, Action on Nomination for Permanent Appointment. It is the responsibility of the nominating agency to advise the nominee of the determination and submit a NYSTEP transaction to effect the appointment. The effective date of the appointment may be no earlier than that indicated on the S-121.