



Eligible Lists and the Rule of Three

Civil Service law (CVS) and Rules for Classified Service provide eligible list guidance. The information below explains eligible list creation after Open-Competitive and Competitive Promotion examinations. A passing examination score makes you an eligible candidate but never guarantees promotion or appointment. If you believe your exam score is incorrect, please review PEF's Examination Score Inquiries [FAQ](#).

Statewide Eligible Lists

Following the scoring of a Civil Service exam, which can take 90-120 days, a statewide eligible list ranks candidates with a passing score of 70 or higher. Ranking on an eligible list does not guarantee canvass or interview. Statewide eligible lists allow a candidate to view their score in comparison to candidates statewide.

- Statewide lists are available on the Eligible List Management System (ELMS) [website](http://cs.ny.gov/elmspublic) (cs.ny.gov/elmspublic).
- If you believe a problem exists with your list status, you must email concerns to the List Maintenance Unit (LMU) at EmploymentRecords@cs.ny.gov.
- Your individual list information can be found on your [NY.gov](http://my.ny.gov) (my.ny.gov) account including Score Notices, List Preferences, Canvasses, Declinations, and Inactivation Requests. Check your account regularly.

Certified Eligible Lists

Agencies do not use statewide eligible lists to fill a vacancy. Instead, agencies request a certified eligible list from the Department of Civil Service (DCS) outlined in Section [4.1](#) of the Rules of Classified Service. Certified lists are determined by DCS and only contain the names of candidates who indicated on their exam application interest in the specific geographic area where the vacancy exists.

First, lists are certified within a promotion unit (if any), then within a department, then within other departments if the exam was interdepartmental. Section [60.2](#) of CVS also allows certification based on sex, limiting certification when the position's duties involve custody or care of persons of the same sex. Medical, physical, and/or other non-competitive qualifying tests are conducted as certification requires.

- Agencies make appointments from a certified eligible list.
- Certified lists are not public, nor are candidate's regional preferences.
- Certified lists are only valid for 90 days, after which the agency must request a new certified list from DCS.
- If a candidate's eligibility date falls within the 90-day timeframe, they can be included in certification to be appointed on the day they become eligible for list appointment.

The Rule of Three

The “Rule of Three” refers to Section 4.2 of the Rules of Classified Service, requiring at least three candidates willing to accept for the agency to make a list appointment. To determine the eligible candidates the agency counts down by three from the top score. Section 4.1 provides equity for individuals with the same score. When the name of an eligible is included on a certified list, the names of all other eligibles with the same final score are included in such certification.

Whenever a certified list does not contain at least three willing candidates, DCS may permit the appointing authority to nominate a candidate for Non-Competitive Promotion (NCP). NCP’s include Reinstatements, Reassignments, Transfers (Section 52.6 or 70.1 of CVS), qualifying 55B and/or 55C candidates, or Non-Competitive examination candidates described in Section 52.7 of CVS. Reemployment list candidates are certified prior to NCP nomination.

Additionally, an agency can fill multiple vacancies at once from the same certified list that meets the rule of three if the positions have the same characteristics (location, shift, full-time/part-time, etc.). Agencies can make multiple appointments at the same time from the reachable score bands, or canvass lower bands if positions are dissimilar or if vacancies need filling later.

Examples of the Rule of Three

If the top score is 100 with three candidates having that score, and the second highest score is a 90, all candidates with a score of 100 would be certified providing a three-person certified eligible list.

Rule of Three	Score Band	Score
1	1	100
2		100
3		100
	2	90

If the top score is 100 and the second highest score is 90 with nine candidates having that score, all candidates with scores of 100 and 90 would be certified providing a ten-person certified eligible list.

Rule of Three	Score Band	Score
1	1	100
2	2	90
3		90
-		90
-		90
-		90
-		90
-		90
-		90
-		90
	3	80

If the top score is 100, the second highest score is 95, and the third highest is 90 with four candidates having that score; all candidates with scores of 100, 95, and 90 would be certified providing a six-person certified eligible list.

Rule of Three	Score Band	Score
1	1	100
2	2	95
3	3	90
-		90
-		90
-		90
	4	85

It is possible to get quite low down on a list before making an appointment. It is also possible to be ranked number one on an eligible list and never be appointed to a position in that title. An appointment won't necessarily be made from the top three candidates on the statewide list, or even from the top three candidates on the certified list.

Below is an example of a statewide eligible list. Could Philippa Georgiou be legitimately appointed to a position in New York City (NYC)? Let's see who is immediately reachable based on the rule of three and regional interest. The names, indicated by an asterisk in this exercise (*) represent people who indicated willingness to work in the NYC region on their exam application.

List Eligibles				
Name	Score	Eligibility Date	Appointment Date	Status
Sato, Hoshi*	100			Active
Chekov, Pavel*	100			Active
Uhura, Nyota	95			Active
Kirk, James*	90			Active
Picard, Jean-Luc	90			Active
Mayweather, Travis*	90			Active
Nerys, Kira*	90			Active
Riker, William*	90			Active
Janeway, Kathryn	90			Active
Sulu, Hikaru *	85	XX/XX/XXXX		Active
Scott, Montgomery	80			Active
Torres, B'Elanna*	80			Active
Tilly, Sylvia*	80			Active
Georgiou, Philippa*	80			Active
Pike, Christopher	80			Active
Freeman, Carol	80			Active
McKoy, Leonard*	80			Active
Sisko, Benjamin	75			Active
Burnham, Michael*	75	XX/XX/XXXX		Active
Tracey, Ronald	75	XX/XX/XXXX		Active
Detmer, Keyla	70			Active
La Forge, Geordi	70			Active
Archer, Johnathan*	70			Active

Two candidates received the top score of 100. The next highest score is a 95 but the candidate, as indicated by the asterisk, is not willing to work in NYC. The list expands to include the candidate with the next highest score who indicated interest in the NYC region (90). Because a candidate with a score of 90 was certified, and all candidates with the same score are equally reachable, every candidate with that score is included in the certification. So, the NYC region interested candidates list includes Hoshi Sato, Pavel Chekov, James Kirk, Travis Mayweather, Kira Nerys, and William Riker. Now the agency canvasses the list and finds out that Hoshi Sato was appointed to another position. James Kirk is temporarily unavailable, Travis Mayweather has left state service, and Kira Nerys declined.

Name	City/State	Score	Status
Sato, Hoshi	New York City, NY	100	appointed
Chekov, Pavel	Yonkers, NY	100	AVAILABLE
Kirk, James	Bronx, NY	90	temp unavail
Mayweather, Travis	Jamaica, NY	90	left state serv
Nerys, Kira	Poughkeepsie, NY	90	declined
Riker, William	West Islip, NY	90	AVAILABLE

Starting with six candidates, following canvass only two candidates remain. The list expands to Hikaru Sulu with the next highest score (85), but they are not yet eligible. To meet the rule of three, consideration is opened to the next score zone (80). B’Elanna Torres, Sylvia Tilly, Philippa Georgiou, and Leonard McKoy who indicated interest in NYC are certified and canvassed. After canvass, as long as three willing candidates remain an appointment can be made.

Name	City/State	Score	Status
Sato, Hoshi	New York City, NY	100	appointed
Chekov, Pavel	Yonkers, NY	100	AVAILABLE
Kirk, James	Bronx, NY	90	temp unavail
Mayweather, Travis	Queens, NY	90	left state serv
Nerys, Kira	Staten Island, NY	90	declined
Riker, William	West Islip, NY	90	AVAILABLE
Sulu, Hikaru	Yonkers, NY	85	AVAILABLE*
Torres, B’Elanna	New York City, NY	80	declined
Tilly, Sylvia	Poughkeepsie, NY	80	AVAILABLE
Georgiou, Philippa	Brooklyn, NY	80	AVAILABLE
McKoy, Leonard	Queens, NY	80	AVAILABLE

Although several candidates scored higher than the appointed candidate, geographic confines and canvass responses decreased the number of willing eligibles allowing scores of 80 for certification. If the appointee is reachable under the rule of three, they do not have to be the top person. No candidate gets preference because their name came first on the list. Therefore, Philippa Georgiou was legitimately appointed by the agency under the rule of three.

Later the agency has an Albany vacancy. Only candidates who indicated interest in the region on their exam (represented by an asterisk * for this exercise) are certified. Before canvassing, the following three candidates are immediately reachable based on their score and interest in the Albany region: Nyota Uhura, Jean-Luc Picard, and Katherine Janeway.

List Eligibles				
Name	Score	Eligibility Date	Appointment Date	Status
Sato, Hoshi	100			Inactive
Chekov, Pavel	100			Active
Uhura, Nyota*	95			Active
Kirk, James	90			Active
Picard, Jean-Luc*	90			Active
Mayweather, Travis	90			Inactive
Nerys, Kira	90			Active
Riker, William	90			Active
Janeway, Kathryn*	90			Active
Sulu, Hikaru	85	XX/XX/XXXX		Active
Scott, Montgomery*	80			Active
Torres, B’Elanna	80			Active
Tilly, Sylvia*	80			Active
Georgiou, Philippa	80		XX/XX/XXXX	Appointed
Pike, Christopher*	80	XX/XX/XXXX		Active
Freeman, Carol*	80	XX/XX/XXXX		Active
McKoy, Leonard	80			Active
Sisko, Benjamin*	75			Active
Burnham, Michael	75			Active
Tracey, Ronald*	70			Active
Detmer, Keyla*	70			Active
La Forge, Geordi*	70			Active
Archer, Johnathan	70			Active

Following canvass, both Jean-Luc Picard and Kathryn Janeway are temporarily unavailable. The list expands to include the next highest score (80). Christopher Pike and Carol Freeman are ineligible for list appointment until their eligibility date. A second canvass yields no response from Sylvia Tilly causing an auto-declination. The agency had a list of seven but following canvassing, only two willing accepting candidates are available. The list expands for certification of the next score zone of Albany interested candidates (75).

Name	City/State	Score	Status
Uhura, Nyota	Albany, NY	95	AVAILABLE
Picard, Jean-Luc	Ballston Spa, NY	90	temp unavail
Janeway, Kathryn	Clifton Park, NY	90	temp unavail
Scott, Montgomery	Troy, NY	80	AVAILABLE
Tilly, Sylvia	Poughkeepsie, NY	80	declined
Pike, Christopher	Schenectady, NY	80	AVAILABLE*
Freeman, Carol	Troy, NY	80	AVAILABLE*
Sisko, Benjamin	Rensselaer, NY	75	AVAILABLE

Another canvass reveals that Benjamin Sisko has left state service, expanding certification a fourth time to the eligibles interested in the Albany region with the next highest score (70). This brings us to the end of the statewide eligible list. As long as three candidates are available and willing to accept, any certified candidate can be appointed. If a canvass reaches the end of an eligible list and the resulting certified list does not meet the rule of three, then DCS may permit the appointing authority to nominate a candidate for Non-Competitive Promotion (NCP).

Name	City/State	Score	Status
Uhura, Nyota	Albany, NY	95	AVAILABLE
Picard, Jean-Luc	Ballston Spa, NY	90	temp unavail
Janeway, Kathryn	Clifton Park, NY	90	temp unavail
Scott, Montgomery	Troy, NY	80	AVAILABLE
Tilly, Sylvia	Poughkeepsie, NY	80	declined
Pike, Christopher	Schenectady, NY	80	AVAILABLE*
Freeman, Carol	Troy, NY	80	AVAILABLE*
Sisko, Benjamin	Rensselaer, NY	75	left state serv
Tracey, Ronald	Saratoga Spgs, NY	70	AVAILABLE
Detmer, Keyla	Rensselaer, NY	70	AVAILABLE
La Forge, Geordi	Albany, NY	70	AVAILABLE

As you can see in these two examples, the highest scoring eligible will not necessarily be appointed. The rule of three provides the opportunity for lower scoring eligibles to be interviewed and considered for appointment. List appointment relies on the certified eligible list having at least three candidates willing to accept the position. Any candidate who indicated regional interest and is reachable by the rule of three can be appointed by the agency.

Finally, the only statutory requirements are that the agency must send notification that a position has been filled to those candidates with higher scores than the person selected for the position, and to those candidates who were interviewed but not selected for the position. The agency is not required to inform every person who was canvassed, nor do they have to inform candidates with the same score as the appointee, unless those candidates were interviewed.