§ 52. Promotion examinations. 1. Filling vacancies by promotion. Except as provided in section fifty-one, vacancies in positions in the competitive class shall be filled, as far as practicable, by promotion from among persons holding competitive class positions in a lower grade in the department in which the vacancy exists, provided that such lower grade positions are in direct line of promotion, as determined by the state civil service department or municipal commission; except that where the state civil service department or a municipal commission determines that it is impracticable or against the public interest to limit eligibility for promotion to persons holding lower grade positions in direct line of promotion, such department or commission may extend eligibility for promotion to persons holding competitive class positions in lower grades which the department or commission determines to be in related or collateral lines of promotion, or in any comparable positions in any other unit or units of governmental service and may prescribe minimum training and experience qualifications for eligibility for such promotion.

2. Factors in promotion. Promotion shall be based on merit and fitness as determined by examination, due weight being given to seniority. The previous training and experience of the candidates, and performance ratings where available, may be considered and given due weight as factors in determining the relative merit and fitness of candidates for promotion.

3. Promotion eligibility of persons on preferred lists and employees on leave of absence. Any employee who has been suspended from his position through no fault of his own and whose name is on a preferred list, and any employee on leave of absence from his position, shall be allowed to compete in a promotion examination for which he would otherwise be eligible on the basis of his actual service before suspension or leave of absence.

4. Departmental and interdepartmental promotion lists. The state civil service department and municipal commissions may establish interdepartmental promotion lists which shall not be certified to a department until after the promotion eligible list for that department

has been exhausted.

5. Promotion units. In the state service, or in the service of a city containing more than one county, promotion examinations may be held for such subdivisions of a department as the state civil service department or the municipal commission of such city, as the case may be, may determine to be an appropriate promotion unit, but departmental and interdepartmental promotion eligible lists shall not be certified to a department until after the promotion unit eligible lists for that department have been exhausted.

6. Promotion and transfer to administrative positions in the state service. (a) For the purpose of this subdivision, the term "administrative positions" shall include competitive class positions in the state service in law, personnel, budgeting, methods and procedures, management, records analysis, and administrative research, as determined by the state civil service department.

(b) Except as provided in section fifty-one, vacancies in administrative positions shall be filled, so far as practicable, by promotion as prescribed in subdivision one of this section, which may be made from among persons holding administrative positions in lower grades without regard to the specialties of their lower grade positions. The civil service department, upon the request of an appointing officer stating the reasons why the filling of administrative positions in grade fourteen or higher under his jurisdiction from an interdepartmental promotion list or a promotion list including persons employed in other units of government would be in the best interests of the state service, or upon its own initiative whenever it finds that the filling of administrative positions in grade fourteen or higher in any department from such an interdepartmental or intergovernmental promotion list would be in the best interests of the state service, may certify such an interdepartmental or intergovernmental promotion list for filling such positions, without preference to departmental lists or to eligibles holding lower grade positions in the department or promotion unit in which such positions exist.

(c) Transfers shall be allowed between administrative positions in the same or related or collateral specialties which involve substantially

equivalent tests or qualifications, subject to such conditions and limitations as the state civil service department may prescribe.

(d) The provisions of this subdivision shall be applicable and controlling, notwithstanding any other provisions of this section or chapter or any other law.

7. Promotion by non-competitive examination. 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, but no examination shall be required for such promotion where such nominee has already qualified in an examination appropriate to the duties and responsibilities of the position.

8. Limitation upon promotion. No promotion shall be made from one position or title to another position or title unless specifically authorized by the state civil service department or municipal commission, nor shall a person be promoted to a position or title for which there is required, by this chapter or the rules, an examination involving essential tests or qualifications different from or higher than those required for the position or title held by such person unless he has passed the examination and is eligible for appointment to such higher position or title.

9. Increase in salary as a promotion. For the purposes of this section an increase in the salary or other compensation of any person holding an office or position within the scope of the rules in force hereunder, beyond the limit fixed for the grade in which such office or position is classified, shall be deemed a promotion.

10. Credit for provisional service. a. No credit in a promotion examination shall be granted to any person for any time served as a provisional appointee in the position to which promotion is sought or in any similar position, provided, however, such provisional appointee by

reason of such provisional appointment shall receive credit in such person's permanent position from which promotion is sought for such time served in such provisional appointment.

b. A person appointed provisionally in accordance with section sixty-five of this article who receives a permanent appointment to the same title immediately following the provisional appointment shall have all time spent as a provisional appointee in such title credited towards the qualifications required to take a promotional examination as well as eligibility for appointment from the resulting eligible list. Such time credited pursuant to this subdivision shall be used only for the purposes of any term that is required for a promotional examination and eligibility for appointment from the resulting eligible list and shall not be used for any other purpose.

11. Notwithstanding any other provision of law, the state department of civil service may, for titles designated by it, extend to employees in the state service who are holding or who have held a position in the non-competitive or labor class of such service the same opportunity as employees in the competitive class to take promotion examinations if such examinations are to be held in conjunction with open competitive examinations.

12. Notwithstanding any other provisions of law, a municipal commission may, for entrance level titles as defined and designated by it, extend to employees in the service of a civil division who are holding or who have held a position in the non-competitive class of such service for a period of two years the same opportunity as employees in the competitive class to take promotion examinations for which such non-competitive class service is determined by the municipal commission to be appropriate preparation if such examinations are to be held in conjunction with open competitive examinations.

13. a. Notwithstanding any other provision of law, the state civil service commission may, for titles designated by it, extend to disabled veterans of the Vietnam era, the same opportunities to take promotion examinations as provided to employees in the competitive class.

b. For purposes of this subdivision, "disabled veterans of the Vietnam era" shall mean veterans who served during the Vietnam conflict as defined in subparagraph four of paragraph (c) of subdivision one of section eighty-five of this chapter and who provide documented evidence that they meet the definition of disabled veteran prescribed by subdivision one of such section.

14. Notwithstanding any other provision of law, in a city containing more than one county, the municipal civil service commission may, for titles designated by it, extend to employees in the service of a civil division or public authority under its jurisdiction who are holding a position in the non-competitive class or the labor class of such service the same opportunities as employees in the competitive class to take promotional examinations for which such non-competitive class or labor class service is determined by the municipal civil service commission to be appropriate preparation.

15. Promotion eligibility of person transferred to the office of information technology services. Notwithstanding any other provision of this chapter, the names of permanent employees transferred from a state agency or department to the office of information technology services shall remain on any promotion eligible list for appointment in the agency or department from which such employees were transferred, for a period of one year or until the expiration of such list, whichever occurs first. Further, where the promotion eligible list on which such employees' names appear is established in the office of information technology services, the names of employees so transferred shall be added to such promotion eligible list.