

MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania
Governor's Office

Subject: Removal of Eligibles for Certification or Appointment in the Classified Service	Number: 580.34 Amended
Date: June 20, 2014	By Direction of:  Jeffrey T. Wallace, Executive Director State Civil Service Commission
Contact Agency: State Civil Service Commission, Bureau of Policy and Information Services, Telephone 717.787.5855	

This directive establishes policy, responsibilities, and procedures to request removal of an eligible from a civil service certification. Marginal dots are excluded due to major changes.

- 1. PURPOSE.** To establish policy, responsibilities, and procedures for requesting the removal of an eligible from a civil service certification.
- 2. SCOPE.** Applies to all commonwealth agencies with classified service positions identified in *Civil Service Act, 71 P.S. § 741.3(d)*, and to political subdivisions of the commonwealth that have contracts with the State Civil Service Commission (SCSC) for services and facilities as provided for in *Civil Service Act, 71 P.S. § 741.212*.
- 3. OBJECTIVE.** To explain policy, responsibilities, and procedures when requesting the removal of an eligible from a civil service certification or from consideration for a specific job title, and to ensure that appointing authorities adhere to the policy and procedures of this directive.
- 4. DEFINITIONS.**
 - a. Appointing Authorities.** Officers, boards, commissions, persons, or a group of people authorized by law to effect human resource transactions.
 - b. Certification.** The referral of one or more eligibles by the Executive Director, SCSC to an appointing authority in order to fill one or more positions or take appropriate classification action.
 - c. Eligible.** A person whose name is on an eligible list.
 - d. Eligible List.** An employment list, promotion list, or reemployment list.

- e. **Employment List.** A list of persons who have been found qualified by an entrance examination for appointment to a position in a particular class.
- f. **Promotion List.** A list of persons who have been found qualified by a promotion examination for appointment to a position in a particular class.
- g. **Reemployment List.** A list of persons who have been found qualified by review of their civil service application and either were furloughed from positions not covered by collective bargaining or could not be returned from leave of absence due to the lack of a vacant position.

5. POLICY.

- a. An objection to the eligibility for certification or appointment of an eligible whose name appears on a certification must be promptly raised by the appointing authority. If the objection is sustained by the Executive Director, SCSC, the appointing authority need not consider the eligible for appointment.
- b. **References.** *4 Pa. Code 97.13; Frankowski v. State Civil Service Commission (Dept. of Labor and Industry) 68 A.3d 1020 (Pa Commw. 2013); Pennsylvania Game Commission v. State Civil Service Commission (Taccone) 789 A.2d 839 (Pa. Commw. 2002); Management Directive 515.15, Identification, Employment, and Education Verification Checks; Management Directive 580.18, Pennsylvania Residency Requirements for the Classified Service; and Manual 580.1, Certification of Eligibles for the Classified Service.*

6. RESPONSIBILITIES.

a. Appointing Authorities shall:

- (1) Ensure that removal requests of eligibles are submitted promptly.
- (2) Base objections to the eligibility for certification or appointment of an eligible on merit-related criteria using the procedures indicated in Section 7. of this directive.
- (3) Submit objections based on an eligible no longer meeting Pennsylvania residency requirements to:

State Civil Service Commission
Veterans' Preference and Certification Division
5th Floor, Strawberry Square Complex, 320 Market Street
Telephone: 717.783.7097 - Fax: 717.783.0419

or

U.S. Postal Service deliveries:
P.O. Box 569
Harrisburg, PA 17108-0569

or

Email at: ra-cs-vpcd@pa.gov

- (4) Submit objections based on an eligible's qualifications in regards to meeting the minimum experience and training requirements for the certified job title to:

State Civil Service Commission
Bureau of Personnel Assessment
3rd Floor, Strawberry Square Complex, 320 Market Street
Telephone: 717.787.1795 - Fax: 717.783.0838

or

U.S. Postal Service deliveries:
P.O. Box 569
Harrisburg, PA 17108-0569

or

Email at: ra-cs-list_removals@pa.gov

b. The State Civil Service Commission shall:

- (1) Review requests for removal of an eligible's actions to ensure compliance with the *Civil Service Act* and other relevant guidelines.
- (2) Render determinations based on the information provided by the appointing authority and eligible, and inform both parties of the decision made.
- (3) Return documentation to the appointing authority for those requests which are not in compliance with this directive or whose reasons do not appear to relate to the eligible's competency and ability to perform in the position for which removal is requested.

7. PROCEDURES.

a. Appointing Authorities:

- (1) Contact the eligible in writing and disclose its intent and reasons for requesting the removal of the eligible's name from the eligible list. The eligible must be given ten calendar days from the mailing date on the notification letter to respond to the appointing authority, either verbally or in writing. A copy of any written response or a summary of any verbal response(s) from the eligible must be included with each request when it is submitted to the SCSC or the request may be returned without action.

Note: When the request for removal is based on an eligible's previous regular status classified service employment from which the eligible was removed for performance or disciplinary reasons, the appointing authority need not contact the eligible and may submit its request directly to the Executive Director, SCSC.

- (2) Submit Form SCSC-5275, Request for Removal of Eligible, to the SCSC to request the removal of an eligible from one or more certification(s) upon which the eligible's name appears, or from Form SCSC-91, Certification of Eligibles, issued to the appointing authority.

- (a) The basis for any request to remove the name of an eligible from a certification must be merit-related; e.g., the reason must touch upon the eligible's competency and ability to perform in the position for which the eligible list has been prepared. Each request must specifically identify the underlying basis for the request and include all supporting documents that the appointing authority has relied upon to determine that the eligible's name should be removed from the eligible list. The completed Form SCSC-5275, Request for Removal of Eligible, along with supporting documentation, shall be sent to the:

Executive Director
State Civil Service Commission
4th Floor, Strawberry Square Complex, 320 Market Street
Fax: 717.783.8736

or

U.S. Postal Service deliveries:
P.O. Box 569
Harrisburg, PA 17108-0569

or

Email at: ra-cs-Exec_Dir@pa.gov

b. The State Civil Service Commission:

- (1) Notify the eligible, in writing, of the request for removal; present the reason(s) therefor; and advise the eligible of the right to file a response opposing the list removal request by sending a completed Form SCSC-5275R, Response to Request for Removal of Eligible, email or postmarked for return within **ten calendar days** of the mailing date on the notification letter from the Executive Director, SCSC.
- (a) If a timely response to the list removal request is filed, the eligible may request an opportunity for oral argument.
- (b) The Executive Director, SCSC, may grant or deny the request for oral argument. If denied, the list removal request will be decided without oral argument. If the request for oral argument is granted, the oral argument will be promptly scheduled. The appointing authority submitting the list removal request will be responsible for designating an attorney or non-attorney representative to appear at the oral argument to support the request. The eligible may appear to argue in person or be represented by legal counsel. Each side will be allowed seven and one-half minutes for the oral argument.
- (c) Only one oral argument will be scheduled for each request. If either party is not able to appear, the argument will proceed with the other party only. If neither party can appear, the argument will be cancelled and the request will be decided without oral argument.

- (d) When a timely response is received but oral argument is not requested, the Executive Director, SCSC, will review the appointing authority's request and the eligible's response and render a determination. If necessary to resolve a material factual dispute and upon a request solely at the discretion of the Executive Director, SCSC, the Commission may schedule a hearing in order to make a determination on the appointing authority's request.
- (2) If a timely response is not returned by the eligible or if the eligible does not respond at all, the list removal request will be administratively reviewed and decided by the Executive Director, SCSC.
- (3) If the request is approved, the appointing authority, upon receipt of formal notification from the Executive Director, SCSC, need not consider the eligible for appointment retroactive to the issuance of the certification or the date the request was prepared by the appointing authority as reflected on Form SCSC-5275, Request for Removal of Eligible, as directed by the Executive Director, SCSC. The Executive Director, SCSC, will also determine the length of time the list removal will remain in effect thereafter.

Note: When the eligible is removed from the eligible list and/or certification under the provisions of this directive, the appointing authority will annotate the Form SCSC-91, Certification of Eligibles, "RLC" (removed from list) or "RCC" (removed from certification). (See Part F of *Manual 580.1, Certification of Eligibles for the Classified Service.*)

- (4) If the request is denied, the Executive Director, SCSC, will provide written notice to the appointing authority and eligible indicating the eligible must be considered for appointment pursuant to the following criteria:
 - (a) If the appointing authority has filled the position with another eligible candidate from the list on which the eligible's name was also certified and if the position was one for which the selection of the eligible would have been mandatory but for the pending removal request, the eligible will be promptly offered an equivalent position by the appointing authority.
 - (b) In all other cases that do not require the prompt appointment of the eligible to an equivalent position after a request for removal of the eligible has been denied, the eligible's list life will be administratively extended by the Executive Director, SCSC, for a period of time equal to the time period during which the Request for Removal of Eligible was pending.

c. Appeal.

- (1) Only an eligible whose name has been removed from a civil service list can appeal the decision. A requesting appointing authority whose request has been denied cannot appeal the decision.

- (2) If the decision is made by the Executive Director, SCSC, an appeal can be filed to request a hearing before the Commission. This appeal can only be made pursuant to Section 905.1 of the *Civil Service Act*, which prohibits discrimination. An eligible cannot request a hearing simply because the eligible does not agree with the decision; the eligible must demonstrate through facts alleged in the appeal that the reason(s) advanced by the requesting appointing authority to justify removing the eligible is being applied either to discriminate against the eligible or in a manner otherwise contrary to law. Form SCSC-4112, Appeal Request Form, must be properly completed and postmarked within twenty calendar days of the date the eligible receives the decision of the Executive Director, SCSC. Failure to file within this timeframe will be construed as a closing of the case at the administrative level.
- (3) Any decision made by the Commission, either after holding a hearing or denying a request to hold a hearing, can be appealed to the Pennsylvania Commonwealth Court.

Enclosure 1 – Form SCSC-5275, Request for Removal of Eligible

Form SCSC-5275, Request for Removal of Eligible, can be obtained at www.scsc.pa.gov, HR Professional website, or from the State Civil Service Commission, Support Services Unit, Basement, Strawberry Square Complex, 320 Market Street or for U.S. Postal Service deliveries, P.O. Box 569, Harrisburg, PA 17108-0569

This directive replaces, in its entirety, *Management Directive 580.34*, dated March 19, 2010.

SCSC-5275 11-2009	Commonwealth of Pennsylvania State Civil Service Commission P.O. Box 569, Harrisburg, PA 17108-0569	REQUEST FOR REMOVAL OF ELIGIBLE
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INSTRUCTIONS:

- Use this form to request removal of an eligible for certification or appointment pursuant to 4 Pa. Code Section 97.13 (which appears below). Also see Management Directive 515.15.
- Submit completed form to the Executive Director, SCSC at the above address.

4 PA CODE

- Section 97.13. Removal of eligible. An objection to the eligibility for certification or appointment of an eligible whose name appears on a certification shall be promptly raised by the appointing authority. If the objection is sustained by the Commission, the appointing authority need not consider the eligible for appointment.

1. DEPT / APPOINTING AUTHORITY

2. WORK UNIT WITHIN DEPT / APPPOINTING AUTHORITY

3A. CLASS TITLE AND CODE

3B. SCSC CERTIFICATION NUMBER

3C. NAME OF ELIGIBLE AND SOCIAL SECURITY NUMBER

3D. DATE CERTIFICATION ISSUED

4. REMOVE THE ELIGIBLE'S NAME FROM CONSIDERATION FOR ALL POSITIONS WITH THIS JOB TITLE:

- 4A. THROUGHOUT THE COMMONWEALTH
- 4B. WITH THE REQUESTING AGENCY ONLY
- 4C. AT THE FOLLOWING SPECIFICALLY DESIGNATED WORK LOCATIONS ONLY

5. JUSTIFICATION FOR REQUEST (Explain the relationship between the work performed and the disqualifying factor(s). Clear and complete reasons why the eligible should not or cannot be considered MUST be provided.)

6. WORK UNIT REQUESTING ACTION

_____ (Signature) _____ (Title) _____ (Date) _____ (Telephone Number)

7. DEPT / APPOINTING AUTHORITY AUTHENTICATION / ENDORSEMENT

_____ (Printed Name) _____ (Title) _____ (Telephone Number)

_____ (Signature) _____ (Date)