

## **Rule 412**

### **Eligible Lists**

#### **Article I: Administration of Eligible Lists**

Applicability: Article I, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) except those represented by the Transport Workers Union (TWU), Locals 200 and 250A.

#### **Article II: Eligible Lists and Eligibility**

Applicability: Article II, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

#### **Article III: Protest of Tentative Eligible List**

Applicability: Article III, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

#### **Article IV: Duration of Eligible Lists**

Applicability: Article III, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

#### **Article V: Holdover Rosters and Return to Duty**

Applicability: Article IV, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

# Rule 412

## Eligible Lists

### Article I: Administration of Eligible Lists

Applicability: Article I, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) except those represented by the Transport Workers Union (TWU), Locals 200 and 250A.

#### **Sec. 412.1**    **Types of Eligible Lists**

The names of applicants passing all phases of an examination shall be placed on one of the following types of eligible lists in the order of total score. Eligibles with tie scores shall be listed in alphabetical order. Applicant information, including applicant names on eligible lists shall not be made public, unless required by law; however, an eligible list shall be made available for public inspection upon request once the eligible list is exhausted or expired and referrals resolved.

##### **412.1.1**    **Discrete Eligible Lists**

Discrete eligible lists are lists derived from examinations which are open for filing for a specific time period and in which the selection procedure is administered on a specific date or dates.

##### **412.1.2**    **Continuous Eligible Lists**

A continuous eligible list may be used for a class after the MTA Director of Transportation/Designee has designated the class as a "continuous list class." Each time an examination for such a class is given, the names of the eligibles resulting from the examination shall be added to the existing eligible list, ranked by the eligible's score on the examination taken. For eligibles with the same score, names shall be listed alphabetically.

##### **412.1.3**    **Duration of Eligibility on Continuous Lists**

Each examination announcement for a continuous list class shall state the time period during which the names of eligibles successfully passing the examination will remain on the continuous list. This time period will be referred to as the "eligibility period." An eligible's name shall be removed from a continuous list at the end of the eligibility period.

#### **Sec. 412.2**    **Duration of Eligible Lists and of Eligibility**

##### **412.2.1**    **Duration of Discrete Eligible List**

For discrete eligible lists, the eligible list shall state the duration of the list with the minimum duration being six (6) months and the maximum twenty-four (24) months.

**Sec. 412.2**     **Duration of Eligible Lists and of Eligibility (cont.)****412.2.2**     **Duration of Eligibility - Continuous Eligible Lists**

For continuous eligible lists, the examination announcement shall specify the duration of eligibility with the minimum period of eligibility being six (6) months and the maximum being twelve (12) months.

**412.2.3**     **Establishment of Duration of Eligible Lists**

In establishing duration of an eligible list or duration of eligibility, the MTA Director of Transportation/Designee shall consider, among other factors, the size of the applicant pool, the number of positions in the class, the rate of turnover, and equal employment opportunity goals.

**412.2.4**     **Expiration of Eligible Lists and Eligibility**

If the expiration date of an eligible list or eligibility period falls on a Saturday, Sunday or legal holiday, the removal of all names shall be effective at the close of business on the following business day.

**Sec. 412.3**     **Extension of Eligibility**

The MTA Director of Transportation/Designee may extend the duration of an eligible list or eligibility periods for individuals on the eligible list or eligibility periods for individuals based on the needs of the Municipal Transportation Agency or merit factors. Any extension of the eligible list or eligibility period shall occur prior to the expiration date with the exception of correcting errors. The maximum duration of the eligible list shall not exceed forty-eight (48) months. Affected eligibles shall be of the extension.

**Sec. 412.4**     **Cancellation of Eligibility**

The MTA Director of Transportation/Designee may cancel an eligible list after the minimum duration of six (6) months. In canceling an eligible list, the MTA Director of Transportation/Designee shall consider, among other factors, the number of eligibles remaining, the length of time since the selection procedures were administered, equal employment opportunity goals, and labor market availability. Eligibles and the recognized employee organization representing the affected class shall be notified.

**Sec. 412.5**     **Merging of Eligible Lists**

**412.5.1**     The MTA Director of Transportation/Designee may authorize the merging of an earlier list in a class with a later eligible list in the same class.

**412.5.2**     The names of eligibles from the earlier eligible list shall be interpolated with the names of eligibles on the later eligible list by score. Eligibles with the same score shall be listed in alphabetical order.

**Sec. 412.5 Merging of Eligible Lists (cont.)**

- 412.5.3 The duration of the merged eligible list shall be established as provided elsewhere in these Rules and eligibles from the earlier eligible list shall have their eligibility extended accordingly.

**Sec. 412.6 Priority of Eligible Lists**

Except as otherwise provided in these Rules, the order of priority of discrete eligible lists regardless of adoption dates is as follows:

- 1) promotive lists;
- 2) combined promotive and entrance lists; and
- 3) entrance lists.

Within each category earlier discrete eligible lists have priority over later discrete eligible lists.

**Sec. 412.7 Posting Period for the Tentative Eligible List Examination Score Report and Review of Ratings by Examination Participants**

- 412.7.1 Examination participants shall have a minimum period as determined by the MTA Director of Transportation/Designee not to be less than three (3) business days to review their own examination ratings to confirm the accuracy of the calculation of their scores and/or rankings. In establishing the minimum period, the MTA Director of Transportation/Designee shall consider among other factors, availability of technology to facilitate the review of ratings, technology or method used for scoring, type of exam, number of eligibles, stability and reliability of the messaging platform in sending and receiving notifications, extent of access by candidates to the means for receiving timely notification, and complexity of the examination ratings. The identity of the examiner giving any mark or grade shall not be disclosed.
- 412.7.2 The MTA Director of Transportation/Designee shall establish the procedures for Review of Ratings.
- 412.7.3 The decision of the MTA Director of Transportation/Designee shall be final and shall not be reconsidered by the Commission.

**Sec. 412.8 Documents Included in Inspection and Maintenance of Anonymity of Examiners**

Review of ratings of the final score calculations, if not exempted from inspection privileges, shall include rating sheets, and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions and answers shall be provided. Individuals are not permitted to see other applicant's application materials, ratings or rating forms.

**Sec. 412.9**     **Appeal of Accuracy of Scores**

The exclusive purpose of the review of ratings period is to review papers supporting a person's standing on the eligible list. Appeals during this period shall be limited to the accuracy of scores. Appeals must be filed in the office of the MTA Director of Transportation/Designee during the inspection period of the eligible list. The MTA Director of Transportation/Designee shall rule on all appeals filed during this period. The decision of the MTA Director of Transportation/Designee on the appeal shall be final and shall not be reconsidered by the Commission.

**Sec. 412.10**     **Adoption of Eligible List for Certification Purposes Only****412.10.1 Confidentiality of Applicant Information**

Applicant information, including applicant name on eligible lists shall not be made public unless required by law. Therefore all eligible lists upon adoption, will be used for certification purposes only. Changes in an eligible list because of clerical or computational errors shall not change the date of adoption of the eligible list.

**412.10.2** The MTA Director of Transportation/Designee may adopt an eligible list pending the resolution of any appeal, and may certify to the appointing officer the names of eligibles available for appointment in accordance with the established certification rule. The decision of the MTA Director of Transportation/Designee shall be final and shall not be reconsidered by the Commission.

**Sec. 412.11**     **Maintenance of Eligibility**

**412.11.1** Except as otherwise provided in these Rules, eligibles who fail to possess or maintain the qualifications required by law and by the terms of the examination announcement under which they participated shall forfeit their eligibility.

**412.11.2** Except for persons designated as "holdovers," promotive eligibles on a combined promotive and entrance eligible list who are separated from the City and County service shall have all promotive credit points deleted from their final scores in the examination and their ranks on the eligible list shall be reduced accordingly. If re-employed and if the eligible list has not expired, upon written request and with the approval of the MTA Director of Transportation/Designee, such promotive credit points and the previous rank shall be restored.

**412.11.3** Except for persons designated as "holdovers," eligibles on a promotive only eligible list who are separated from the City and County service shall be removed from such eligible list. If re-employed and if the eligible list has not expired, upon written request and with the approval of the MTA Director of Transportation/Designee, the person may be returned to the eligible list with promotive credit points and previous rank restored.

**Sec. 412.11**    **Maintenance of Eligibility (cont.)**

**412.11.4**    The MTA Director of Transportation/Designee is authorized to remove eligibles from an eligible list in accordance with the conditions specified above.

**Sec. 412.12**    **The Use of Eligible Lists**

Except for circumstances beyond the control of the MTA, the initial Notice of Certification to eligibles as provided in Civil Service Rule 413 shall be issued within thirty (30) days from the date of adoption of an eligible list.

## **Rule 412**

### **Eligible Lists**

#### **Article II: Eligible Lists and Eligibility**

Applicability: Article II, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

**Sec. 412.13**      **Establishment of Eligible Lists**

The names of applicants passing all phases of an examination shall be placed on one of the following types of eligible lists in the order of total score. Eligibles with tie scores shall be listed in alphabetical order. Applicant information, including applicant names on eligible lists shall not be made public, unless required by law; however, an eligible list shall be made available for public inspection upon request once the eligible list is exhausted or expired and referrals resolved.

**Sec. 412.14**      **Priority of Eligible Lists**

The order of priority of eligible lists regardless of adoption dates is as follows:

- 1) Promotive lists
- 2) Combined promotive and entrance lists
- 3) Entrance lists

Within each category, earlier lists have priority over later lists.

**Sec. 412.15**      **Maintenance of Eligibility**

**412.15.1**      Except as otherwise provided in these Rules, eligibles who fail to possess and maintain the qualifications required by law and by the terms of the examination announcement under which they participated will forfeit their eligibility.

**412.15.2**      Except for persons designated as "holdovers," promotive eligibles on a combined promotive and entrance eligible list who are separated from the City and County service shall have all promotive credit points deleted from their final scores in the examination and their ranks on the eligible list shall be reduced accordingly. If re-employed and if the eligible list has not expired, upon written request and with the approval of the MTA Director of Transportation/Designee, such promotive credit points and the previous rank shall be restored.

**Sec. 412.15**      **Maintenance of Eligibility (cont.)**

- 412.15.3**      Except for persons designated as "holdovers," eligibles on a promotive only list who are separated from the City and County service shall be removed from such list. If re-employed and if the eligible list has not expired, upon written request and with the approval of the MTA Director of Transportation/Designee, the person may be returned to the eligible lists with promotive credit points and previous rank restored.

**Sec. 412.16**      **Official Adoption Date**

- 412.16.1**      At the beginning of the inspection period the tentative eligible list examination score report shall be posted and made available for public inspection. Any protests must be filed in the office of the MTA Director of Transportation/Designee during the posting period. After the posting period and in the absence of protests on ratings, the eligible lists shall automatically become officially adopted.
- 412.16.2**      If protests are received during the posting period, the investigation and action of the MTA Director of Transportation/Designee shall be expedited so that final adoption of the eligible list is not delayed beyond sixty (60) days after the date of posting.
- 412.16.3**      Eligibles who, as a result of their ranking, would receive a notice of appointment regardless of the outcome of the protest(s), may be offered employment from adopted lists pending the resolution of any protest(s) and amendment to the adopted eligible list.
- 412.16.4**      Changes in an eligible list because of clerical errors or re-ratings shall not change the date of adoption of the eligible list.

**Sec. 412.17**      **Duration of Eligibles**

- 412.17.1**      As provided in these Rules, examination announcements shall state the duration of the eligible list. If the expiration date falls on a Saturday, Sunday or legal holiday, the removal of all names shall be effective at the close of business on the following business day.
- 412.17.2**      Prior to abolishing any list, pursuant to the provisions of this Rule, one (1) month notice shall be given to remaining eligibles and the recognized employee organization representing the class affected and eligibles so notified shall be given a final opportunity to accept appointment to positions available.

**Sec. 412.18**      **Use of Eligible Lists**

Except for circumstances beyond the control of the MTA, the initial Notice of Certification to eligible as provided in Civil Service Rule 413 shall be issued within thirty (30) days from the date of adoption of the eligible list.



## Rule 412

### Eligible Lists

#### Article III: Protest of Tentative Eligible List

Applicability Article III, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

#### **Sec. 412.19** **Posting of Tentative Eligible List Examination Score Report**

Following the completion of any examination, a tentative eligible list examination score report shall be posted for the inspection of the public and of participants.

#### **Sec. 412.20** **Posting Period for the Tentative Eligible List Examination Score Report and Review of Ratings by Examination Participants**

**412.20.1** Examination participants shall have a minimum period as determined by the MTA Director of Transportation/Designee not to be less than three (3) business days to review their own examination ratings to confirm the accuracy of the calculation of their scores and/or rankings. In establishing the minimum period, the MTA Director of Transportation/Designee shall consider among other factors, availability of technology to facilitate the review of ratings, technology or method used for scoring, type of exam, number of eligibles, stability and reliability of the messaging platform in sending and receiving notifications, extent of access by candidates to the means for receiving timely notification, and complexity of the examination ratings. The identity of the examiner giving any mark or grade shall not be disclosed.

**412.20.2** The MTA Director of Transportation/Designee shall establish the procedures for Review of Ratings.

**412.20.3** The decision of the MTA Director of Transportation/Designee shall be final and shall not be reconsidered by the Commission.

#### **Sec. 412.21** **Documents Included in Inspection and Maintenance of Anonymity of Examiners**

Review of ratings of the final score calculations, if not exempted from inspection privileges, shall include rating sheets, and other papers needed to verify accuracy of scores. Neither the identity of the examiner giving any mark or grade in an examination nor the questions and answers shall be provided. Individuals are not permitted to see other applicant's application materials, ratings or rating forms.

**Sec. 412.22**      **Inspection Restricted to Examination Participants**

Only participants in the examination may review the questions used in the examination.

**Sec. 412.23**      **Automatic Adoption of Tentative List**

If no protests are received during the posting period the eligible list is automatically adopted.

**Sec. 412.24**      **Disposition of Protests**

If protests are received during the posting period, the investigation and action of the MTA Director of Transportation/Designee shall be expedited so that final adoption of the eligible list is not delayed beyond sixty (60) days after the date of posting.

**Sec. 412.25**      **Effect on Eligibles Pending Resolution of Protest**

Eligibles who, as a result of their ranking, would receive a notice of appointment regardless of the outcome of the protest(s) may be offered employment from adopted lists pending the resolution of any protest(s) and amendment to the adopted eligible list.

## **Rule 412**

### **Eligible Lists**

#### **Article IV: Duration of Eligible Lists**

Applicability Article IV, Section 412.26 and 412.27, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA) represented by the Transport Workers Union (TWU), Locals 200 and 250A.

#### **Sec. 412.26**      **Tenure of Eligible Lists**

The eligible list shall state the duration of the list with the minimum duration being six (6) months and the maximum being twenty-four (24) months.

#### **Sec. 412.27**      **Extension of Eligibility**

The MTA Director of Transportation/Designee may extend the duration of an eligible list or eligibility period for individuals on the eligible list based on the needs of the Municipal Transportation Agency or merit factors. Any extension of the eligible list or eligibility period shall occur prior to the expiration date with the exception of correcting errors. The maximum duration of the eligible list shall not exceed forty-eight (48) months. Affected eligibles shall be notified of the extension.

## **Rule 412**

### **Eligible Lists**

#### **Article V: Holdover Rosters and Return to Duty**

Applicability: Article V, Rule 412, shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA).

#### **Sec. 412.28**      **Holdover Status and Return to Duty**

##### **412.28.1**      **Holdover Roster - General Requirements**

- 1) Subject to the provisions of this Rule, permanent or probationary civil service appointees who are laid off or placed on an involuntary leave of absence shall be designated as holdovers.
- 2) The names of holdovers shall be ranked on a holdover roster for the class or classes from which layoff occurs and in the order of total seniority in the class in the City and County service. Seniority prior to resignation or termination shall not be used in determining holdover rights in a class.
- 3) Holdovers shall be returned to duty in rank order from holdover rosters.
- 4) Holdovers shall, for a period of five (5) years from the date of layoff, have preference for appointment over eligibles on civil service lists, or employees requesting transfer, reinstatement, or reappointment. The MTA Director of Transportation/Designee, upon review of all the circumstances, may extend the holdover status for such specified period of time as he/she may deem proper.
- 5) Holdover rosters shall be canvassed in the following order: first, permanent holdover rosters; then, temporary holdover rosters.
- 6) Permanent holdovers shall be returned to duty in temporary positions before temporary holdovers. Permanent holdovers shall displace any temporary or part-time exempt appointee in the same class in any City and County department. Permanent holdovers returned to duty in temporary positions shall retain their status on the permanent holdover roster. In the event of a displacement, the least senior temporary or part-time exempt appointee in the City and County service shall be laid off first.

**Sec. 412.28**      **Holdover Status and Return to Duty (cont.)****412.28.1**      **Holdover Roster - General Requirements (cont.)**

7) Permanent holdovers in classes with citywide seniority for layoff purposes shall be entitled to displace only the least senior permanent employee in that class in City service. Holdovers who waive such appointment shall remain on the holdover list for subsequent permanent appointment to vacant positions, but may accept a temporary position in the class, if available.

**8) Exceptions to Return to Duty in Rank Order**

If two (2) or more approved requisitions are on file, the MTA Director of Transportation/Designee may permit holdovers in line for appointment, and in accordance with their standing on the roster, to select from the available requisitions the positions to which they desire appointment. In cases where holdovers on rosters who would be reached for appointment on requisitions, the MTA Director of Transportation/Designee may consult with appointing officers and employees involved, and if it is in the best interest of the service, may offer out said positions to holdovers so as to make it possible for them to return to duty in the department from which laid off.

9) Holdovers who are notified that they are being returned to duty are required to respond to MTA within five (5) business days of the date of notification. The MTA Director of Transportation/Designee may extend the time response period beyond five (5) business days. Failure of a holdover to respond within the time limits shall be considered a refusal of the offer and shall be subject to the penalty, if any, provided in this Rule.

10) Except as otherwise provided in these Rules, holdovers who fail to possess and maintain the qualifications required by law and by the terms of the examination announcement under which they participated shall forfeit their eligibility.

11) In all cases of change of address, MTA must be notified in writing separately for each class involved. Notice of change of address to the participant may inspect their own ratings. Post Office and/or the employee's current department only shall not be a reasonable excuse for special consideration in case of failure to respond to notice of return to duty within time limits.

12) Except as otherwise directed by the MTA Director of Transportation/Designee, holdovers being returned to duty shall not be required to pass a new medical examination.

**Sec. 412.28**      **Holdover Status and Return to Duty (cont.)****412.28.1**      **Holdover Roster - General Requirements (cont.)**

**13)** A properly completed copy of the designated report of layoff or involuntary leave of absence form shall be forwarded to the MTA Director of Transportation/Designee as soon as possible (in advance of the action if possible) so that MTA may record the action and place the employee's name on a holdover roster for immediate consideration for return to duty.

**14)** Late reports of layoff shall not interfere with nor affect the rights of holdovers to whom notices of return to duty have already been mailed and who have been or may be returned to duty in response to such notices.

**15)** If there is no holdover roster for a class or if the holdover roster is exhausted, the MTA Director of Transportation/Designee may authorize that a holdover be returned to duty from another holdover roster deemed suitable to temporarily provide the required service. If no other roster is available, the position shall be offered to eligibles on regular civil service eligible lists or to individuals requesting transfer, reinstatement or reappointment.

**16)** Holdovers returned to duty shall be reinstated with accrued compensatory time, if any, and with their original anniversary date for the purposes of computing sick leave and vacation benefits.

**412.28.2**      **Holdover - Temporary Appointees**

**1)** Appointees certified from an eligible list who have satisfactorily served under temporary appointment shall upon expiration of the list be designated a "temporary holdover."

**2)** Resignation from temporary appointment from a holdover roster or refusal of temporary appointment from a holdover roster cancels all temporary holdover rights in that class.

**412.28.3**      **Holdover - Permanent and Probationary Appointees**

**1)** A permanent or probationary appointee to a promotional or entrance position who is laid off shall be designated a "permanent holdover" and shall be returned to duty in a position in the class from which laid off from a holdover roster as provided in this Rule.

**Sec. 412.28**      **Holdover Status and Return to Duty (cont.)****412.28.3**      **Holdover - Permanent and Probationary Appointees**

2) A permanent holdover returned to duty on a permanent basis in a department other than the one from which laid off shall serve a new probationary period.

3) Return to duty of a permanent holdover to a position in the class from which laid off shall be subject to the following conditions:

**4) Return to Duty - Department From Which Laid Off**

Permanent Vacancy - A permanent holdover who refuses an offer to return to duty on a permanent basis in the department from which laid off shall forfeit all holdover rights in that class, and shall be removed from all rosters for that class. Such refusal of return to duty shall be deemed a resignation.

Temporary Vacancy - Permanent holdovers may refuse an offer to return to duty on a temporary basis in the department from which laid off without affecting future offers to be returned to duty. Waiver of temporary appointment shall not be removed without the permission of the MTA Director of Transportation/Designee.

**5) Return to Duty - Department Other Than the One From Which Laid Off**

Permanent holdovers may refuse an offer to return to duty on a permanent or temporary basis in a department other than the department from which laid off without affecting future offers to be returned to duty. Such departmental waivers shall not be withdrawn without the approval of the MTA Director of Transportation/Designee.

6) A permanent holdover who was laid off during the probationary period and who is returned to duty in the department from which laid off shall complete the remaining period of probationary service.

7) Transferees who are laid off during the probationary period shall be ranked on the permanent holdover roster for the class in accordance with their seniority in the class in the City and County service.

8) Permanent holdovers who resign or are released during the probationary period may be returned to the holdover roster from which appointed subject to the provisions of these Rules. Such holdovers shall not displace any current permanent or probationary employees, but shall remain on the list for subsequent permanent appointment to vacant positions and may accept a temporary position in the class, if available.