

TITLE 4A

CIVIL SERVICE

Title Historical Note

Pursuant to L. 1986, c.112, effective September 25, 1986, the former Department of Civil Service was replaced by the Department of Personnel. The rules contained in Title 4 of the New Jersey Administrative Code, Department of Civil Service, were repealed pursuant to several rulemakings from 1987 to 1990 and new rules of the Department of Personnel were adopted and codified in Title 4A. For the historical text of rules of the former Title 4, Department of Civil Service, contact the Office of Administrative Law.

CHAPTER 1

GENERAL RULES AND DEPARTMENT ORGANIZATION

Authority

N.J.S.A. 11A:1-2, 11A:2-1, 11A:2-3, 11A:2-6, 11A:2-7, 11A:2-11, 11A:2-12, 11A:3-1, 11A:3-6, 11A:4-13, 11A:10-1, 11A:10-3, 11A:10-4, 11A:11-2, 52:14B-3(1) and (3), and 52:14B-4(f); N.J.A.C. 1:30; P.L. 2001, c. 5, P.L. 2001, c. 404, P.L. 2003, c. 246 and P.L. 2006, c. 103; 42 U.S.C. §§12101 et seq.; and 28 CFR Part 35.107.

Source and Effective Date

R.2008 d.214, effective July 1, 2008.
See: 40 N.J.R. 1400(a), 40 N.J.R. 4519(b).

Chapter Expiration Date

Chapter 1, General Rules and Department Organization, expires on July 1, 2013, except Subchapter 5, Disability Discrimination Grievance Procedure, which is exempt under 28 C.F.R. Part 35.

Chapter Historical Note

Chapter 1, General Rules and Department Organization, was adopted as R.1987 d.406, effective October 5, 1987. See: 19 N.J.R. 1011(a), 19 N.J.R. 1827(a). See, also, Title Historical Note prior to this Chapter.

Pursuant to Executive Order No. 66(1978), Chapter 1, General Rules and Department Organization, was readopted as R.1992 d.416, effective September 22, 1992. See: 24 N.J.R. 2490(a), 24 N.J.R. 3715(a). Subchapter 5, Disability Discrimination Grievance Procedure, was adopted as R.1993 d.614, effective December 6, 1993. See: 25 N.J.R. 1314(c), 25 N.J.R. 5464(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Rules and Department Organization, was readopted as R.1997 d.434, effective September 22, 1997. See: 29 N.J.R. 3101(a), 29 N.J.R. 4455(a).

Chapter 1, General Rules and Department Organization, was re-adopted as R.2003 d.111, effective February 13, 2003. See: 34 N.J.R. 3569(a), 35 N.J.R. 1407(a).

Chapter 1, General Rules and Department Organization, was re-adopted as R.2008 d.214, effective July 1, 2008. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PURPOSE, SCOPE AND DEFINITIONS

4A:1-1.1 Purpose

The purpose of these rules is to establish a personnel system that provides a fair balance between managerial needs and employee protections for the effective delivery of public services consistent with Title 11A, New Jersey Statutes. See N.J.S.A. 11A:1-2.

Case Notes

The Civil Service Act and its accompanying regulations did not require that preliminary notices of disciplinary action be signed by both police director and IAD Commander because the Act and its regulations did not require two signatures for the filing of a complaint. *Grill v. City of Newark*, 709 A.2d 333, 311 N.J.Super. 149 (N.J.Super.L. 1997).

Validity. *Gloucester Cty. Welfare Bd. v. N.J.Civ.Serv.Comm'n*, 93 N.J. 384, 461 A.2d 575 (1983).

4A:1-1.2 Scope, applicability and invalidation

(a) All appointing authorities and employees subject to Title 11A, New Jersey Statutes, shall comply with these rules.

(b) These rules shall apply only to the career service unless otherwise specified.

(c) These rules shall be considered the means by which the statutory purposes of the merit employment system are car-

ried out. The Commissioner or the Board may relax these rules for good cause in a particular situation, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

(d) If a rule or part of a rule is declared invalid for any reason, the remainder of the rules shall not be affected by such determination.

Amended by R.2008 d.214, effective August 4, 2008.
See: 40 N.J.R. 1400(a), 40 N.J.R. 4519(b).

In (c), substituted "purposes" for "purpose".

Law Review and Journal Commentaries

Civil Service — Disability Retirement — Police Seniority. Judith Nallin, 133 N.J.L.J. No. 13, 55 (1993).

Case Notes

In a fire captain's suit against a city challenging the failure to appoint him to deputy fire chief, a civil service appointing authority violated the Rule of Three, set forth in N.J.S.A. 11A:4-8, in guaranteeing a promotional candidate that he would receive the appointment of deputy fire chief if he attained the highest score on the examination, particularly because that individual guarantee was not contemporaneously disclosed to the other applicants who sat for the examination. In re Martinez, 403 N.J. Super. 58, 956 A.2d 386, 2008 N.J. Super. LEXIS 206, 28 I.E.R. Cas. (BNA) 760 (App.Div. 2008).

Merit System Board has right to relax rules of timeliness of appeal for good cause. Matter of Allen, 262 N.J. Super. 438, 621 A.2d 87 (A.D.1993).

Appellate Division improperly reviewed action of Civil Service Commissioner in deciding educational qualifications (citing former rule N.J.A.C. 4:1-1.4). Gloucester Cty. Welfare Bd. vs. N.J. Dep't of Civil Service, 93 N.J. 384, 461 A.2d 575 (App.Div.1983).

Jurisdiction: Civil Service v. PERC. City of Hackensack v. Winner, 162 N.J. Super. 1, 392 A.2d 187 (App.Div.1978) modified and affirmed, 82 N.J. 1, 410 A.2d 1146 (1980).

Public employer authority to bend Civil Service Commission by collective bargaining agreement. State v. State Supervisory Employees Association, 78 N.J. 54, 393 A.2d 233 (1978).

Transfer of case of provisional employee who was discharged during county reorganization and was entitled to retroactive consideration of her qualifications for permanent civil service employee status to Department of Personnel was proper, where department had special expertise and competence in area. Melani v. County of Passaic, 345 A.2d 579.

Authority of Commission to use appeals panels in regard to salary disputes. Abramson v. Farrell, 122 N.J. Super. 30, 298 A.2d 705 (1972).

County College Law pertains: nonprofessional and non-instructional employees of county community colleges are not subject to Civil Service. Atlantic Comm. College v. Civil Service Commission, 59 N.J. 102, 279 A.2d 820 (1971).

4A:1-1.3 Definitions

The following words and terms, when used in these rules, shall have the following meanings unless the context clearly indicates otherwise:

"Appointing authority" means a person or group of persons having power of appointment or removal.

"Appointment" means the offer, acceptance and commencement of employment.

"Base salary" means an employee's rate of pay exclusive of any additional payments or allowances.

"Board" means the Merit System Board.

"Career Service" means those positions and job titles subject to the tenure provisions of Title 11A, New Jersey Statutes.

"Certification" means a list of names presented to an appointing authority for regular appointment.

"Class code" means a designation assigned to job titles in State and local Service with ranking based upon an evaluation of job content.

"Closing date for examination" means the date by which an applicant for an examination must meet all of the requirements contained in the examination announcement.

"Commissioner" means the Commissioner of Personnel.

"Days" means calendar days unless otherwise specified.

"Demotion" means, in local service, a reduction in title or scale of compensation, and in State service, a reduction in class code.

"Department" in local service, where not otherwise defined by statute, means the largest type of organizational unit established by ordinance or resolution, as appropriate, that is not a sub-unit of any other organizational unit for the purpose of administering the political subdivision. In State service, "department" means a principal executive department of State government.

"Disposition" means the written report of actions taken by an appointing authority regarding a certification.

"Eligible list" means a roster compiled or approved by the Department of Personnel of persons who are qualified for employment or reemployment.

"Filing date for examination" means the date by which an application for an examination must be received in the office designated in the announcement. When mailed, the filing date is the date by which a properly addressed application must be postmarked.

"Fine" means a disciplinary penalty which requires the payment of money or the performance of service without pay or at reduced pay.

"Immediate family" means an employee's spouse, domestic partner (see section 4 of P.L. 2003, c.246), child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee's household.

"Layoff" means the separation of a permanent employee from employment for reasons of economy or efficiency or other related reasons and not for disciplinary reasons.

"Local service" means employment in any political subdivision operating under Title 11A, New Jersey statutes.