

(b) In local service, applicants for promotion from entry level law enforcement or firefighter titles shall have three years of continuous permanent service in a title to which the examination is open, except as otherwise provided by law.

(c) Except when permitted by the Merit System Board for good cause, such as a documented affirmative action basis, applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process. The Department of Personnel may recommend to the Board good cause situations where out-of-title work should be accepted.

(d) Employees, with the exception of those serving in an entry level law enforcement or firefighter title, who have accepted a voluntary demotion to or are appointed from a special reemployment list to a title to which the examination is open, may, in order to satisfy the requirement of (a)1 above, include continuous permanent service in any higher related or comparable title. Employees serving in an entry level law enforcement or firefighter title who have accepted a voluntary demotion to or are appointed from a special reemployment list to a title to which the examination is open, may, in order to satisfy the requirement of (b) above, include continuous permanent service in any higher related or comparable uniformed title.

(e) An employee who has established eligibility for a promotional examination with a closing date earlier than the effective date of a layoff shall be permitted to take such examination.

(f) Employees who are separated or displaced as a result of layoff and who subsequently return to a title and unit scope to which a promotional examination is open between the filing deadline and the examination date, shall be allowed to file for the examination.

(g) The time requirements specified in (a) and (b) above may be reduced to completion of the working test period if:

1. There is currently an incomplete promotional list and/or the number of employees eligible for examination will result in an incomplete list;
2. It appears that vacancies to be filled within the duration of the promotional list will exceed the maximum number of eligibles that could result from examination; or
3. Other valid reasons as determined by the Commissioner.

Amended by R.1993 d.45, effective January 19, 1993.
See: 24 N.J.R. 3589(a), 25 N.J.R. 291(a).

Redesignated existing (a)3 as (a)4; added new (a)3.
Amended by R.1993 d.270, effective June 7, 1993.
See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised (a)1 and 2; revised (f).
Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking.
See: 29 N.J.R. 810(a), 29 N.J.R. 1568(b).
Amended by R.2000 d.11, effective January 3, 2000.
See: 31 N.J.R. 2824(a), 32 N.J.R. 35(a).

In (a)3, substituted "below the Commendable level" for "of a Four, Marginally Below Standards or Five, Significantly Below Standards" following "rating".

Petition for Rulemaking.
See: 36 N.J.R. 3303(a), 4176(b).
Amended by R.2006 d.104, effective March 20, 2006.
See: 37 N.J.R. 4351(a), 38 N.J.R. 1425(a).

In (d), added "with the exception of those serving in an entry level law enforcement or firefighter title," to the first sentence and added the last sentence.

Case Notes

Consideration of prior service in determining continuous service requirements for examination. *Makowitz v. Civil Service Dep't*, 177 N.J.Super. 61, 424 A.2d 1190 (App.Div.1980) certification denied 87 N.J. 326, 434 A.2d 76.

Preemptive rights to new position based on special reemployment list (citing former N.J.A.C. 4:1-12.4). *Cunningham v. Dep't of Civil Service*, 69 N.J. 13, 350 A.2d 58 (1975).

4A:4-2.7 Promotion upon waiver of competitive examination

(a) Following the announcement of a promotional examination, the Commissioner may authorize the promotion of a qualified permanent employee in the career service by regular appointment without competitive examination and without the establishment of an eligible list if:

1. The employee has been successfully tested in the basic skills required for the promotional title;
2. The employee has not failed, within one year prior to the announced closing date, a promotional examination for that title. However, an employee who subsequently passed an examination for that title shall be eligible for promotion;
3. The number of interested eligibles for the promotional examination referred to in (a) above does not exceed the number of promotional appointments by more than two; and
4. Veterans preference rights are not a factor.

Amended by R.1993 d.270, effective June 7, 1993.
See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised (a)4.
Amended by R.1997 d.443, effective October 20, 1997.
See: 29 N.J.R. 2731(a), 29 N.J.R. 4456(b).

Substantially amended (a); and in (a)3, inserted "for the promotional examination referred to in (a) above".

Case Notes

Remedy for unlawful discrimination—employee should be promoted to positions earlier denied them as such positions become available (citing former N.J.A.C. 4:1-8.5). *Pilot v. Dep't of Health*, 7 N.J.A.R. 150 (1982) affirmed A-5858-81 (App.Div.1983).

4A:4-2.8 Scheduling of examinations

(a) Examinations may be scheduled for one or more sessions on a Statewide, regional or local basis.

(b) Candidates will be notified in an appropriate manner of the time and place of the examination, and of any postponement or cancellation.

(c) Candidates shall be at the examination site at the designated time. Candidates arriving late shall only be admitted as follows:

1. Unless the examination notice states otherwise, candidates for written examinations or examinations containing written and performance parts shall be admitted to the examination if they arrive at the test room within 15 minutes after the designated time.

2. Candidates for oral examinations or examinations containing oral and performance parts shall be admitted to the examination if they arrive at the test room within 30 minutes after the designated time, provided the last scheduled candidate has not started the examination.

(d) A candidate who arrives late and is admitted to the examination shall receive the full allotted time to complete the examination.

(e) Jurisdictions operating under Title 11A, New Jersey Statutes, shall furnish sufficient facilities for the conduct of examinations when requested by the Department of Personnel.

Amended by R.1993 d.270, effective June 7, 1993.
See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised (c)1; deleted (c)2; redesignated existing (c)3 to (c)2.

Case Notes

Department of Energy could return employee to his permanent position as senior engineer when promotional examination was not given between date of his provisional appointment and date of demotion (citing former N.J.A.C. 4:1-1.1). *O'Malley v. Department of Energy*, 109 N.J. 309, 537 A.2d 647 (1987).

4A:4-2.9 Make-up examinations

(a) Make-up examinations, except for professional level engineering promotional examinations under (b) below and public safety open competitive and promotional examinations under (c) below, may be authorized for the following reasons:

1. Error by the Department of Personnel or appointing authority;

2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;

3. Documented serious illness or death in the candidate's immediate family;

4. Natural disaster;

5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation; and

6. Other valid reasons.

(b) For professional level engineering promotional examinations, make-up examinations may be authorized only in cases of:

1. Debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination;

2. Death in the candidate's immediate family as evidenced by a copy of the death certificate;

3. A candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation; or

4. Error by the Department of Personnel or appointing authority.

(c) For police, fire, correction officer, sheriff's officer, juvenile detention officer and other public safety open competitive and promotional examinations, make-ups may be authorized only in cases of:

1. Death in the candidate's immediate family;

2. Error by the Department of Personnel or the appointing authority; or

3. A catastrophic health condition or injury, which shall be defined as either:

i. A life-threatening condition or combination of conditions; or

ii. A period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days.

(d) Employees returning from military leave shall have an opportunity to take promotional examinations that have not yet been administered, or make-up examinations for active promotional lists for which they were eligible while on military leave. If the eligible passes the examination, his or her name will be placed on the eligible list, for prospective appointment only, based upon the score obtained, as if the examination had been taken when originally held.

(e) Employees who have been removed for disciplinary reasons or indefinitely suspended pending criminal charges, and are thereafter exonerated, shall have an opportunity to take promotional examinations that have not yet been administered, or make-up examinations for active promotional lists, if the suspension or removal resulted in the employee's non-participation in the promotional examination.

(f) A candidate must request, in writing, a make-up examination, within five days after the examination date due to one of the valid reasons set forth in (a), (b) or (c) above, as applicable. However, a candidate must submit a written request for a make-up examination within five days of receipt of the examination notice in case of one of the valid reasons set forth in (a), (b) or (c) above, as applicable, of which a candidate is aware upon receipt of the examination notice.