

(h) All candidates taking make-up examinations, except physical performance examination, shall, as a precondition to taking the make-up examination, be required to sign a statement that they have no knowledge of the content of the examination as a result of information gained from or furnished by other candidates who participated in the original examination.

(i) In extraordinary circumstances, such as an examination that requires a multiple assessment of a candidate which results in a group consensus rating by a panel of experts, a make-up examination shall not be held. In such cases, candidates will be so notified at least 45 days prior to the date of the examination. The only exception will be documented error on the part of the Department of Personnel or appointing authority, in which case a make-up may be granted if practicable.

Amended by R.1989 d.569, effective November 6, 1989.  
See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

In (a): added language regarding police and fire promotional examinations.

Relettered old (b)-(g) as (c)-(h) with no change in text.

Amended by R.1993 d.270, effective June 7, 1993.

See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised (b), (e), (g) and (h).

Amended by R.1994 d.114, effective March 7, 1994.

See: 25 N.J.R. 4823(a), 26 N.J.R. 1225(a).

Amended by R.1994 d.285, effective June 6, 1994.

See: 26 N.J.R. 1183(a), 26 N.J.R. 2256(b).

Amended by R.1997 d.72, effective February 18, 1997.

See: 28 N.J.R. 4978(a), 29 N.J.R. 549(a).

Inserted new (d) and recodified former (d) through (h) as (e) through (i).

#### 4A:4-2.10 Conduct and security of examinations

(a) The Department shall insure that all applicants for an examination are given equal opportunity to demonstrate their relative merit and fitness.

(b) In the conduct or administration of an examination, the following shall be considered prohibited actions:

1. Securing, by unauthorized persons, of questions or materials, unless the same are available to all applicants;
2. Securing, by unauthorized persons, of information concerning the number or identity of applicants until all parts of the examination have been held and a resulting eligible list issued;
3. Identification of an applicant's examination papers or work before all examinations have been rated, where anonymity is required;
4. Impersonation of an applicant, either in person or by the improper exchange of applicant numbers or in any other manner;
5. Use or attempted use of any unauthorized aids, information or assistance, including copying or attempting to copy from, or helping or attempting to help another applicant in any part of an examination or performance of work assigned;

6. A candidate's participation in an examination if it would likely result in physical injury to the candidate or others, or damage to property; or

7. Copying, recording or transcribing any examination question or answer, and/or the removal from any examination room of any question sheet, answer sheet, scrap paper, notes or other papers or materials related to the content of an examination.

(c) Anyone participating in a prohibited action under (b) above shall be disqualified from the examination and may be rejected from future examinations and subject to punishment as provided by law.

(d) See N.J.A.C. 4A:4-2.6 on confidentiality of examination records.

Amended by R.1993 d.270, effective June 7, 1993.

See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Added new (d).

#### Case Notes

Once the Department of Personnel (DOP) or Merit System Board discovered that breaches in exam security had occurred, such as fact that unknown individuals had typed out 65 or 71 questions that appeared on sergeant's exam and disseminated them with answers throughout police department prior to the administration of any make-up exams, the make-up civil service exams should have been cancelled and an appropriate remedy fashioned to ensure that all candidates had a fair and competitive exam. In the Matter of Police Sergeant (PM3776V) City of Paterson, 176 N.J. 49, 819 A.2d 1173.

Violations of spirit and purpose of Civil Service rules. *Rox v. Dept. of Civil Service*, 141 N.J.Super. 463, 358 A.2d 819 (App.Div.1976).

#### 4A:4-2.11 Residence standards

(a) In local service, an appointing authority shall provide the Department of Personnel with its residency ordinance or resolution, if any, on an annual basis as determined by the Department, and shall provide any subsequent modifications within 20 days after adoption.

1. If the appointing authority provides the Department with such a subsequent modification following promulgation of an eligible list, the Department may charge it for the cost of reordering the list.

(b) Where residence requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse, a court order or other evidence of separation may be requested;

4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;

5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and

6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

(c) Unless otherwise specified, residency requirements shall be met by the announced closing date for the examination.

1. When an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment. See N.J.A.C. 4A:4-4.7(a)7.

(d) The Department of Personnel will review residence requirements for examination candidates. It is the responsibility of the appointing authority to review and enforce residence requirements relating to appointment and continued employment.

(e) When there is a requirement that an employee reside within a specific distance of the work site, a written request must be submitted by the appointing authority to the Department for approval of such a restriction.

1. A request must be received and approved prior to the announcement of the examination.

2. However, the Department may, in appropriate circumstances, add special residency limitations after an eligible list is promulgated.

(f) An applicant seeking to appeal a residency determination shall utilize the procedures contained in N.J.A.C. 4A:4-6.6. The applicant shall have the burden of proving his or her residence.

Amended by R.1991 d.498, effective October 7, 1991.  
See: 23 N.J.R. 1984(a), 23 N.J.R. 2999(a).

Authorized DOP to enforce residency requirements from examination closing date to the date of appointment.

Amended by R.1993 d.270, effective June 7, 1993.

See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised (b).

Administrative Correction.

See: 25 N.J.R. November 15, 1993.

Amended by R.1998 d.291, effective June 1, 1998.

See: 30 N.J.R. 890(a), 30 N.J.R. 1975(a).

Added a new (a) and recodified former (a) through (e) as (b) through (f).

#### Case Notes

Applicant's appeal from determination of Merit System Board that he was not entitled to resident's preference was moot. *Nunan v. New Jersey Dept. of Personnel*, 244 N.J.Super. 494, 582 A.2d 1266 (A.D. 1990).

Termination of identification officers due to violation of residency requirements affirmed. *Barr and Payne v. City of Newark Police Department*, 97 N.J.A.R.2d (CSV) 582.

Employee was properly ranked on non-resident portion of eligible list. *Rizzolo v. Newark School District*, 94 N.J.A.R.2d (CSV) 506.

Documentation confirmed residence in Burlington township. In the Matter of *Stephen J. Wenger v. Burlington Township*, 94 N.J.A.R.2d (CSV) 394.

Employee was not resident for purposes of placement on eligibility list. *Lightfoot v. City of Newark*, 93 N.J.A.R.2d (CSV) 109.

Officer was required to live in the state of New Jersey. *Glover v. Middlesex County Probation Department*, 92 N.J.A.R.2d (CSV) 777.

Resident of borough as of announced closing date and as of appointment date entitled to residency preference. *Grembowiec v. Lysiak*, 92 N.J.A.R.2d (CSV) 356.

#### 4A:4-2.12 Professional qualifications substitution program

(a) Applicants for designated open competitive or promotional examinations for professional titles may be permitted to substitute appropriate work experience, on a year-for-year basis, for specified higher educational requirements.

1. For titles requiring specific coursework or major fields of study, the successful completion of the coursework or fields of study shall be required.

2. Examination announcements shall contain, when appropriate, general information on the eligibility requirements and use of this program.

3. Appointing authorities shall conspicuously post information about this program.

(b) The Department shall make the determination whether prior work experience may be substituted for specified education requirements.

#### Case Notes

Substitution of degrees to meet educational qualifications for testing. *Gloucester Cty. Welfare v. N.J. Civ. Serv. Comm'n*, 93 N.J. 384, 461 A.2d 575 (1983) (see dissenting opinion).

#### 4A:4-2.13 College Level Examination Program (CLEP)

(a) College Level Examination Program (CLEP) scores are acceptable as a substitution for college credits required for open competitive or promotional examinations. Acceptable scores are those consistent with scores accepted for credit by Thomas A. Edison College as published annually in its catalog.

(b) The following standards shall be considered:

1. Applicants may be considered eligible to take open competitive and promotional examinations by substituting a combination of education, appropriate work experience and acceptable CLEP scores;

2. Acceptable scores on the CLEP General Examination and Subject Examinations will be considered the same as college undergraduate credits;

3. Acceptable scores on the five-part CLEP General Examination may be substituted for up to 30 undergraduate college credits;

4. Where specific course work and/or a major field of study are required in the job specification or examination announcement:

i. An acceptable score on an appropriate CLEP Subject Examination may be substituted for college credit hours;

ii. An acceptable subscore on an appropriate subsection of the CLEP General Examination may be substituted for undergraduate college credit hours for the course work requirement;

5. Acceptable scores achieved on any of the CLEP Subject Examinations shall be viewed to correspond to those credits normally earned during the final two years of a four-year college curriculum;

6. Acceptable scaled scores or subscores on the CLEP General Examination shall be viewed to correspond to those credits normally earned during the first two years of a four-year college curriculum.

(c) Information about testing site locations and application procedures may be obtained from the CLEP Educational Testing Service (ETS), Princeton, New Jersey and Thomas A. Edison College, Trenton, New Jersey.

(d) Examination announcements shall contain general information on eligibility requirements and utilization of CLEP.

(e) Appointing authorities shall conspicuously post information about CLEP.

#### **4A:4-2.14 Accommodation and waiver of examinations for persons with disabilities**

(a) Otherwise qualified applicants with disabilities may request an accommodation in taking an examination by indicating their request for accommodation on the examination application.

1. Upon receipt of the request for accommodation, the Department shall make reasonable accommodation where appropriate and notify the candidate of the arrangements.

(b) The Commissioner may waive an examination for an otherwise qualified candidate or provisional with a physical, mental or emotional affliction, injury, dysfunction, impairment or disability which makes it physically or psychologically not practicable to undergo the testing procedure for a particular title, but does not prevent satisfactory performance of the title's responsibilities under conditions of actual service.

1. A request for waiver shall be in writing, filed with the Department and contain:

i. The examination's title and symbol number, or in the case of a provisional, his or her title and employer;

ii. A statement from an appointing authority utilizing the title that the individual can satisfactorily perform the duties of that title under actual conditions of service;

iii. A physician's statement with supporting medical documentation;

iv. Whether the individual has previously filed for or taken an examination for that title, the results, if any, and whether an accommodation has previously been made; and

v. Agreement to undergo any additional physical or psychological examinations that the Department deems appropriate.

(c) If reasonable accommodation can be made, the waiver request will be denied and arrangements made for such accommodation.

(d) If reasonable accommodation is not possible, the Commissioner will decide whether to grant a waiver, and if granted, whether the candidate will be employed or placed on an eligible list and in appropriate cases, granted seniority.

Amended by R.1993 d.270, effective June 7, 1993.

See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised heading and revised (a).

Amended by R.1994 d.72, effective February 7, 1994.

See: 25 N.J.R. 4821(b), 26 N.J.R. 794(b).

#### **4A:4-2.15 Rating of examinations**

(a) Ratings may be computed by a valid statistical method based on the use of scoring formulas and/or conversion tables.

1. When education and experience are to be rated as part of an examination, they shall be graded through the use of scales prepared by the Department of Personnel.

(b) Examinations consisting of more than one part may be rated independently.

1. Candidates failing to meet minimum standards on one part of the examination shall be ineligible for the remaining parts.

2. Candidates who do not receive a passing score on one part of an examination shall be deemed to have failed the entire examination.

3. Candidates who fail an entire examination shall not receive Performance Assessment Review (PAR) credit or credit for seniority. See (c) and (d) below.

(c) Candidates for State service promotional examination shall receive credit for the final PAR rating on file in the candidate's personnel office as of the announced closing date for the rating period immediately preceding the announced closing date.

1. Credit shall be awarded as follows:

i. Three points for Exceptional; or

ii. One point for Commendable.

2. When there is no final rating on file for a candidate as of the announced closing date, the rating for that period shall be deemed Commendable and credit shall be given for that rating.