

**CHAPTER 3**

**CLASSIFICATION, SERVICES AND COMPENSATION**

**Authority**

N.J.S.A. 11A:2-6(d), 11A:2-11(h), 11A:3-1 through 7 and 11A:6-24; 29 U.S.C. §§ 201 et seq.; and Executive Order No. 70(1992).

**Source and Effective Date**

R.1999 d.60, effective January 28, 1999.  
See: 30 N.J.R. 4346(a), 31 N.J.R. 638(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 3, Classification, Services and Compensation, expires on January 28, 2004.

**Chapter Historical Note**

Chapter 3, Classification, Services and Compensation, was adopted as R.1988 d.416, effective September 6, 1988. See: 20 N.J.R. 846(a), 20 N.J.R. 2255(b). See, also, Historical Notes and annotations at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 6, 7, 10 and 27; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 6, 7, and 27; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapter 2.

Pursuant to Executive Order No. 66(1978), Chapter 3, Classification, Services and Compensation, was readopted as R.1993 d.424, effective August 5, 1993. See: 25 N.J.R. 1916(a), 25 N.J.R. 4064(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Classification, Services and Compensation, was readopted as R.1999 d.60, effective January 28, 1999. See: Source and Effective Date

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. CAREER AND UNCLASSIFIED SERVICES**

- 4A:3-1.1 Career service
- 4A:3-1.2 Divisions within the career service
- 4A:3-1.3 Unclassified service
- 4A:3-1.4 Unclassified secretaries and confidential assistants: State service

**SUBCHAPTER 2. SENIOR EXECUTIVE SERVICE**

- 4A:3-2.1 General provisions: State service
- 4A:3-2.2 Designation of SES positions: State service
- 4A:3-2.3 SES appointments: State service
- 4A:3-2.4 SES performance evaluation: State service
- 4A:3-2.5 SES compensation: State service
- 4A:3-2.6 SES benefits: State service
- 4A:3-2.7 (Reserved)
- 4A:3-2.8 (Reserved)
- 4A:3-2.9 Separation from the SES: State service

**SUBCHAPTER 3. CLASSIFICATION**

- 4A:3-3.1 Classification of positions
- 4A:3-3.2 Establishment of classification plans
- 4A:3-3.3 Administration of classification plans
- 4A:3-3.4 Title appropriate to duties performed
- 4A:3-3.5 Reclassification of positions
- 4A:3-3.6 New titles
- 4A:3-3.7 Trainee titles
- 4A:3-3.8 Intermittent titles: State service

- 4A:3-3.9 Appeal procedure

**SUBCHAPTER 4. COMPENSATION**

- 4A:3-4.1 General provisions
- 4A:3-4.2 Job evaluation: State service
- 4A:3-4.3 Job reevaluation requests and appeals: State service
- 4A:3-4.4 Salary rates for initial appointments: State service
- 4A:3-4.5 Anniversary dates: State service
- 4A:3-4.6 Anniversary date change when employee is in non-pay status: State service
- 4A:3-4.7 Determining types of pay adjustments: State service
- 4A:3-4.8 Lateral pay adjustments: State service
- 4A:3-4.9 Advancement pay adjustments: State service
- 4A:3-4.10 Demotional pay adjustments: State service
- 4A:3-4.11 Downward title reevaluation pay adjustments: State service
- 4A:3-4.12 Movement of employees from no-range or single rate titles to titles having salary ranges: State service
- 4A:3-4.13 Salaries of employees whose annual salaries are not on a step in their salary range: State service
- 4A:3-4.14 Movement of employees to trainee titles from titles having higher pay rates: State service
- 4A:3-4.15 Salaries for employees appointed to tentative title positions: State service
- 4A:3-4.16 Salaries of employees on military leave during a trainee period: State service
- 4A:3-4.17 Salaries and anniversary dates for employees appointed from a special reemployment list: State service
- 4A:3-4.18 Salaries and anniversary dates for employees appointed from a regular reemployment list: State service
- 4A:3-4.19 Other forms of compensation: State service
- 4A:3-4.20 Retroactive pay: State service
- 4A:3-4.21 Salary overpayments: State service

**SUBCHAPTER 5. OVERTIME COMPENSATION**

- 4A:3-5.1 General provisions
- 4A:3-5.2 Definitions: State service
- 4A:3-5.3 40 hours or less in a workweek: State service
- 4A:3-5.4 Criteria for exemption from Federal Fair Labor Standards Act: State service
- 4A:3-5.5 Federal fair labor standards applicable to more than 40 hours in a workweek for 35, 40 and NE titles: State service
- 4A:3-5.6 Federal fair labor standards applicable to more than 40 hours in a workweek for 3E, 4E, NL and N4 titles: State service
- 4A:3-5.7 Special circumstances: State service
- 4A:3-5.8 Holiday pay: State service
- 4A:3-5.9 Appointing authority responsibilities: State service
- 4A:3-5.10 Appeal procedures: State service

**APPENDIX A. OVERTIME ELIGIBILITY AND COMPENSATION CHART**

**SUBCHAPTER 1. CAREER AND UNCLASSIFIED SERVICES**

**4A:3-1.1 Career service**

(a) All job titles shall be allocated to the career service, except for those job titles allocated by the Board to the unclassified service as provided in N.J.A.C. 4A:3-1.3 and those positions in State service allocated by the Board to the Senior Executive Service as provided in N.J.A.C. 4A:3-2.

(b) Before a title in the career service is reallocated to the unclassified service, the Board shall hold a public hearing to solicit comment with respect to the criteria set forth in N.J.A.C. 4A:3-1.3.

(c) When a title is reallocated from the career service to the unclassified service by the Board or by legislative enactment, incumbents with permanent status in the title shall retain all career service rights so long as they remain in that title. When a permanent incumbent is appointed to a different, unclassified title, the employee shall retain only those rights to a Merit System Board hearing available to career service employees upon separation from government service for disciplinary reasons (see N.J.A.C. 4A:2-2) or due to layoff (see N.J.A.C. 4A:8).

#### Case Notes

"Conflict of interest" resolution was not preempted by state law and was not "special legislation". *Bourquin v. Hunterdon County Department of Planning*, 93 N.J.A.R.2d (CSV) 32.

#### 4A:3-1.2 Divisions within the career service

(a) The Commissioner shall allocate and reallocate career service titles between the competitive and noncompetitive divisions.

(b) A career service job title in the competitive division is subject to the competitive examination procedures. See N.J.A.C. 4A:4-2.

(c) A job title may be placed in the noncompetitive division on an ongoing or interim basis when it is determined by the Commissioner that it is appropriate to make permanent appointments to the title and one or more of the following criteria are met.

1. Competitive testing is not practicable due to the nature of the knowledge, skills and abilities associated with the job;
2. Certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems and working conditions; or
3. There is a need for immediate appointments arising from a new legislative program or major agency reorganization.

(d) All appointees to noncompetitive titles shall meet the minimum requirements set forth in the job specification and satisfactorily complete a working test period.

(e) Prior to any reallocation from the competitive to noncompetitive divisions, whether on an ongoing or interim basis, an administrative review shall be conducted and notice of the proposed reallocation shall be sent to affected appointing authorities and negotiations representatives. The notice shall designate the period of time, which in no event shall be less than 20 days, during which written comment may be submitted, and may provide for a public hearing.

1. Data, reports, analyses and other information utilized in the determination shall constitute the administrative record, and shall be available for review by affected employees, appointing authorities and negotiations representatives.

2. After the comment period and the public hearing, if any, the Commissioner shall issue a final administrative decision containing findings and conclusions with respect to the proposed reallocation, based upon the administrative record and any comment received, and implementation procedures.

(f) When a job title is reallocated from the competitive to noncompetitive divisions, the Commissioner's decision shall specify an effective date for reallocation.

1. Permanent employees in that title as of the effective date shall retain their permanent status in the noncompetitive division.

2. Probationary employees in that title as of the effective date shall continue serving their working test periods and, upon successful completion, attain permanent status in the noncompetitive division.

3. Provisional employees who remain in that title as of the effective date shall receive regular appointments and begin serving their working test periods on the effective date.

(g) If a title is designated noncompetitive on an interim basis, at the end of the interim noncompetitive period, which shall be no greater than one year, the job title shall be redesignated as competitive. Individuals appointed during the interim noncompetitive period shall, upon successful completion of their working test periods, attain permanent status in the competitive division.

#### Case Notes

Business justifications for requirement that nonuniformed municipal employees be residents did not justify racially discriminatory effect of requirement. *NAACP, Newark Branch v. Town of Harrison, N.J.*, D.N.J.1990, 749 F.Supp. 1327, affirmed 940 F.2d 792.

#### 4A:3-1.3 Unclassified service

(a) A job title shall be allocated by the Board to the unclassified service when:

1. In State service, the title is so designated under N.J.S.A. 11A:3-4;
2. In local service, the title is so designated under N.J.S.A. 11A:3-5;
3. The title is designated unclassified by another specific statute;
4. A specific statute provides that incumbents in the title serve for a fixed term or at the pleasure of the appointing authority; or

5. The Board determines that it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title.

(b) In local service, no more than 10 municipal department heads may be allocated to the unclassified service in each municipality. A department head in a municipality,

where not otherwise set by statute, is a person whose position has been created by ordinance or resolution, as appropriate, to perform substantial managerial duties, and who has the authority and powers of appointment, removal, selection for promotion, and control of the assignment and work of subordinates subject only to the legislative power of the governing body and applicable statutes.

(e) The training period shall be extended, upon approval by the Department of Personnel, beyond the time designated in the specification when:

1. The trainee has not yet completed the working test period; or
2. A trainee is serving provisionally and an eligible list for the title has not yet been issued.

(f) The training period may be reduced, upon approval by the Department of Personnel, to a shorter period than designated in the specification when:

1. The trainee has completed the working test period;
2. The trainee meets the minimum qualifications for the primary title; and
3. All trainees in that title in the same appointing authority who meet these conditions are provided with a reduced training period.

(g) The advancement of the successful, permanent trainee to the appropriate primary title shall be accomplished without the usual promotional examination process, but rather by reclassifying the trainee position to an appropriate primary title and by concurrent regular appointment of the trainee to the position.

1. To effect advancement, the appointing authority must certify the trainee's successful completion of the training period, and, for those primary titles requiring extra training courses or the attainment of a proficiency standard over the trainee title requirements, that the trainee has successfully completed such requirements. A trainee may only receive advancement to one of the appropriate primary titles specified for that trainee title.
2. In State service, advancement to a primary title shall coincide with the beginning of a pay period.
3. The inability of a permanent trainee to attain a level of performance warranting advancement to the appropriate primary title shall be considered cause for separation.
4. Trainees advanced to a primary title shall be required to complete a working test period in the primary title. Trainees who fail to successfully complete their working test period in the primary title have no right to return to the trainee position.

Amended by R.1993 d.424, effective September 7, 1993.  
See: 25 N.J.R. 1916(a), 25 N.J.R. 4064(a).

#### 4A:3-3.8 Intermittent titles: State service

(a) In State service, the designation "intermittent" shall be used for those titles in the career service where work responsibilities are characterized by unpredictable work schedules and which do not meet the normal criteria for regular, year-round, full-time or part-time assignments. Employees who hold full-time primary employment in State service are not eligible to serve in an intermittent title.

(b) Intermittent employees may be subject to furlough when due to managerial needs, the employee cannot be scheduled for work within the next week.

1. A furlough shall not be considered a layoff, nor shall the notice obligations or layoff rights set forth in N.J.A.C. 4A:8 be applicable to intermittent employees subject to furlough. However, reasonable advance written notice shall be given to furloughed employees.

2. Furloughing shall be done in the inverse order of seniority in the designated work unit based on official records at the end of the last pay period. Prior to use by the appointing authority, designated work units must be submitted to and approved by the Department of Personnel.

3. Recall from furlough shall be made in seniority order from among furloughed employees assigned to the designated work unit. Employees who hold full-time primary employment in State service are exempt from the recall provision.

4. In case of equal seniority, the tie shall be broken based on the number of hours in pay status under temporary employment during the last two years immediately preceding conversion to an intermittent title.

5. Recall may be extended on a regional or Statewide basis if the recall list for the designated work unit is exhausted.

6. Additional furlough procedures may be set by the Commissioner.

(c) Records for intermittent employees, including hours worked, recall lists, telephone contact lists and benefit time accumulation, shall be maintained by the appointing authority in a manner acceptable to, and subject to audit by, the Department of Personnel.

(d) See N.J.A.C. 4A:4-5.2 for working test periods for intermittent employees.

(e) The following chart indicates the amount of vacation, sick and administrative leave to which intermittent employees are entitled based on accumulated hours of work. See N.J.A.C. 4A:6-2.4(b) for holiday pay.

## LEAVE ENTITLEMENTS—INTERMITTENT EMPLOYEES

## VACATION LEAVE

	<b>Employees with up to 10,440 hours of service (equivalent of 5 years)</b>	<b>After 10,440 hours of service (equivalent of 5 years)</b>	<b>After 25,056 hours of service (equivalent of 12 years)</b>	<b>After 41,760 hours of service (equivalent of 20 years)</b>
<b>Workweek</b> 40, 4E and N4 hour titles	1 day (8 hours) for each 174 hours in regular pay status.	1 day (8 hours) for each 139 hours in regular pay status.	1 day (8 hours) for each 104 hours in regular pay status.	1 day (8 hours) for each 84 hours in regular pay status.
	<b>Employees with up to 9,135 hours of service (equivalent of 5 years)</b>	<b>After 9,135 hours of service (equivalent of 5 years)</b>	<b>After 21,924 hours of service (equivalent of 12 years)</b>	<b>After 36,540 hours of service (equivalent of 20 years)</b>
<b>Workweek</b> NL, NE, 35 and 3E hour titles	1 day (7 hours) for each 152 hours in regular pay status.	1 day (7 hours) for each 122 hours in regular pay status.	1 day (7 hours) for each 93 hours in regular pay status.	1 day (7 hours) for each 73 hours in regular pay status.

## SICK LEAVE

	<b>Through Dec. 31 of First Calendar Year of Employment</b>	<b>After Dec. 31 of First Calendar Year of Employment</b>
<b>Workweek</b> 40, 4E and N4 hour titles	1 day (8 hours) for each 174 hours in regular pay status.	1 day (8 hours) for each 139 hours in regular pay status.
NL, NE, 35 and 3E hour titles	1 day (7 hours) for each 152 hours in regular pay status.	1 day (7 hours) for each 122 hours in regular pay status.

## ADMINISTRATIVE LEAVE

<b>Workweek</b> 40, 4E and N4 hour titles	$\frac{1}{2}$ day (4 hours) for each 174 hours in regular pay status to a maximum of 3 days (24 hours) in any calendar year.
NL, NE, 35 and 3E hour titles	$\frac{1}{2}$ day (3 $\frac{1}{2}$ hours) for each 152 hours in regular pay status to a maximum of 3 days (21 hours) in any calendar year.

Amended by R.1990 d.48, effective January 16, 1990.  
See: 21 N.J.R. 3337(a), 22 N.J.R. 166(b).

In (e): revised text by adding chart indicating amounts of leave time to which intermittent employees are entitled.  
Amended by R.1998 d56, effective January 20, 1998.

See: 29 N.J.R. 4363(a), 30 N.J.R. 382(b).

In (a), inserted the second sentence; and in (b)3, inserted the second sentence.

**4A:3-3.9 Appeal procedure**

(a) An appeal from the classification or reclassification of a position is a request for review, or a complaint that the duties of a specific position do not conform to the approved job specification for the title assigned to that position.

(b) The procedures in this section are applicable to employees in the career and unclassified services.

(c) In State service, a classification appeal from an employee or union representative shall be submitted, in writing, to the agency representative. The appeal must identify the specific duties that do not conform to the specification for the title and, if the appellant proposes a different existing title for the position, an explanation of how that title more accurately describes the duties of the position than the current or proposed title. The appeal should also include a completed position classification questionnaire. If the appellant's supervisor has not signed the questionnaire within five working days of receipt, the appellant may forward the questionnaire to the agency representative without the supervisor's signature but with a notation of the date of presentation to the supervisor.