

### 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.2009 d.377, effective November 18, 2009.  
See: 41 N.J.R. 2527(a), 41 N.J.R. 4700(b).

#### Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, Classification, Services and Compensation, expires on November 18, 2016. See: 43 N.J.R. 1203(a).

#### 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 See, also, Historical Notes and annotations at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 6, 7, 10 and 27; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 6, 7, and 27; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapter 2.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: 30 N.J.R. 4346(a), 31 N.J.R. 638(a).

Chapter 3, Classification, Services and Compensation, was readopted as R.2004 d.242, effective June 4, 2004. See: 36 N.J.R. 909(a), 36 N.J.R. 3267(a).

Chapter 3, Classification, Services and Compensation, was readopted as R.2009 d.377, effective November 18, 2009. See: Source and Effective Date.

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#### 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;

(c) A single specification may be used for a title series. In such cases, the distinction between different titles in the series will be set forth in the specification.

(d) To the extent feasible, the same job titles shall be used in the State and local classification plans.

#### Case Notes

Commissioner of Department of Personnel was authorized under Civil Service Act to promulgate specification for county park rangers that contained requirement that such rangers complete a training program mandated by Police Training Commission within 18 months of appointment. N.J.S.A. 11A:3-1; N.J.Admin. Code title 4A, chap. 3-3.2(a, b). *Aparin v. County of Gloucester*, 345 A.2d 41 (2001).

Questionnaire inquiry to determine classification of certain municipal titles. In re Tp. Moorestown, 107 N.J.Super. 274, 258 A.2d 134 (App.Div.1969).

### 4A:3-3.3 Administration of classification plans

(a) The Commissioner shall implement and administer the classification plans and in this regard shall:

1. Classify new positions and reclassify existing positions through job analysis;
2. Establish new titles, abolish unnecessary titles, and consolidate titles where a single title is appropriate for the grouping of positions with similar qualifications, authority and responsibility;
3. Modify specifications for existing titles or series to ensure their accuracy; and
4. Notify appointing authorities and provide for notice to other affected persons of changes in classification plans.

(b) Appointing authorities shall promptly notify the Department of Personnel of new positions to be established, the authority and reasons for their establishment and of all organizational changes or changes in the duties and responsibilities of individual positions, and such additional information as may be required.

(c) Appointing authorities shall provide the Department of Personnel with updated organization charts on an annual basis.

(d) Positions in the career, unclassified and senior executive services shall be subject to job audit by the Department of Personnel to ensure accurate classification and compliance with Title 11A, New Jersey Statutes and Title 4A, N.J.A.C.

(e) In State service, each department and autonomous agency shall designate an individual as the agency representative, to serve as its liaison with the Department of Personnel on all classification and compensation matters.

(f) In State service, the agency representative shall provide notice to affected and potentially affected negotiations representatives upon submission of the following to the Depart-

ment of Personnel. The Department of Personnel shall verify that proper notice has been given of each of the following:

1. Reorganizations;
2. Job content reevaluation requests;
3. Requests for new titles or title series;
4. Job specification modification requests;
5. Employee relations group changes; and
6. Establishment, modification or termination of flexi-time programs, alternate workweek programs and adjusted hours of operation.

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

### 4A:3-3.4 Title appropriate to duties performed

No person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds, unless otherwise provided by law or these rules.

#### Case Notes

Assigning employee to more manual labor and less managerial and administrative work employee did not violate due process. *Ferraro v. City of Long Branch*, C.A.3 (N.J.)1994, 23 F.3d 803.

Appellant suspended and subsequently removed from title of Senior Systems Analyst reinstated to duties appropriate to his permanent title; appointing authority failed to support charges of falsifying residency address, falsely signing affidavit with intent to defraud county and failing to complete assignments timely and correctly (citing former N.J.A.C. 4:1-6.4). *Valluzzi v. Bergen County*, 10 N.J.A.R. 89 (1988), adopted—Merit System Bd., App.Div. A-3269-87, 3/3/88.

### 4A:3-3.5 Reclassification of positions

(a) When the duties and responsibilities of a position change to the extent that they are no longer similar to the duties and responsibilities set forth in the specification and the title is no longer appropriate, the Commissioner shall after review:

1. Reclassify the position to a more appropriate title if there is one;
2. Establish a new title to which the position shall be reclassified; or
3. Take other appropriate action based on the organizational structure of the appointing authority.

(b) An appointing authority may request a classification review by the Department of Personnel in a manner and form as determined by the Commissioner. Such review may be initiated by the Department of Personnel. An employee or union representative may request a classification review in accordance with N.J.A.C. 4A:3-3.9.

(c) No reclassification of any position shall become effective until notice is given affected permanent employees and approval is given by the Commissioner.

1. Within 30 days of receipt of the reclassification determination, unless extended by the Commissioner in a particular case for good cause, the appointing authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to the duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional or lateral, shall be effected in accordance with all applicable rules.

2. Should an employee in the career or unclassified service in State or local service, or an appointing authority in local service, disagree with reclassification, an appeal may be filed in accordance with N.J.A.C. 4A:3-3.9.

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

#### Case Notes

Bd. of Educ. violated equal pay provisions of Fair Labor Standards Act by paying less to female custodial workers than male custodial workers for equal work requiring equal skill, effort, and responsibility (citing former N.J.A.C. 4:1-6.5). *Brennan v. Bd. of Educ., Jersey City, New Jersey*, 374 F.Supp. 817 (D.N.J.1974).

Where an employee believed that he was being asked to perform duties outside of his job title, he should have sought an audit of the position to determine whether re-classification under N.J.A.C. 4A:3-3.5 was warranted; but until such time as an audit could be performed and a final determination made, the employee was required to continue to perform the duties assigned by management (adopting in part and rejecting in part 2007 N.J. AGEN LEXIS 57). In re *Hatcher*, OAL Dkt. No. CSV 2123-06, 2007 N.J. AGEN LEXIS 352, Final Decision (March 28, 2007).

City's requirement that all tree trimmers have a valid driver's license was not a change in the job requirement; common sense, economics, principles of good government, and State law all required that a person who operated equipment mounted on a commercial vehicle must have a commercial driver's license. In re *Zafain*, OAL Dkt. No. CSV 442-06, 2006 N.J. AGEN LEXIS 794, Initial Decision (September 25, 2006), adopted (Merit System Board November 15, 2006).

Appellant suspended and subsequently removed from title of Senior Systems Analyst reinstated to duties appropriate to his permanent title; appointing authority failed to support charges of falsifying residency address, falsely signing affidavit with intent to defraud county and failing to complete assignments timely and correctly (citing former N.J.A.C. 4:1-6.4). *Valluzzi v. Bergen County*, 10 N.J.A.R. 89 (1988), adopted—Merit System Bd., App.Div. A-3269-87, 3/3/88.

#### 4A:3-3.6 New titles

(a) The Department of Personnel may determine that a new title or title series is necessary, when it is found that a new set of functions is assigned to the position(s) being reviewed and these new functions are not appropriately described by an existing title or title series.

(b) Requests for new titles or title series must be submitted in writing by the appointing authority to the Department of Personnel on a designated form. In State service, such requests shall be submitted by the agency representative. The request must include:

1. A detailed explanation of why the new title is needed and why an existing title cannot be used or specification modified;
2. Designation of any title to be abolished or replaced; and
3. Any other information requested by the Department of Personnel.

(c) If the Department of Personnel determines that there is a need for a new title or title series, a new job specification will be prepared and in State service the title will be evaluated for compensation purposes.

(d) Pending approval by the Commissioner of a new title or title series, the designation "Tentative Title" may be used for affected positions. See N.J.A.C. 4A:3-4.15 for compensation procedures in State service.

(e) In State service, appeals from a salary evaluation of a new title will be processed in accordance with N.J.A.C. 4A:3-4.3.

(f) The effective date of the creation of a new title by the Commissioner will be:

1. In State service:
  - i. The beginning of the pay period immediately after 14 days from the date the Department of Personnel receives the new title request and all requested information;
  - ii. The date of appointment to the Tentative Title; or
  - iii. An appropriate date as established by the Commissioner when a classification review has been initiated by the Department of Personnel; or
2. In local service, an appropriate date as established by the Commissioner.

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

#### 4A:3-3.7 Trainee titles

(a) Trainee titles may be established in State and local service to provide for entry level employment.

1. This section applies to all titles designated by the term "trainee" and to other titles where the specification designates the application of the trainee rule, for example, Correction Officer Recruit.

2. A single trainee title may provide entry level employment for more than one title or title series, under appropriate circumstances.

3. In State service, trainee positions are established by the temporary downward classification of another title.

(b) Positions in competitive trainee titles may only be filled by regular appointments from open competitive, promotional, regular or special reemployment lists, or, in the absence of such lists, by provisional appointments. Positions in noncompetitive trainee titles may only be filled by regular appointments, including appointments from regular or special reemployment lists. Eligibility for promotion to a trainee title shall include open competitive requirements.

(c) Upon regular appointment, trainees must successfully complete their working test periods.

(d) Advancement to the lowest title in the related title series, referred to in this section as the primary title, shall take place only upon successful completion of the training period. The length of the training period shall be designated in the specification for the particular trainee title. The designated length shall not be longer than 12 months, unless otherwise provided by law. The training period must be continuous, except if interrupted by leave or layoff from the trainee title, and may include provisional service in the trainee or higher related title.

(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:3-3.7A Police Assistant title: local service**

(a) The regular appointment of an employee to the title of Police Assistant shall be in the competitive division of the career service. An employee so appointed shall meet the minimum requirements set forth in the job specification and satisfactorily complete a working test period. See N.J.A.C. 4A:4-5.2(d).

(b) Removal of an employee serving permanently in the title of Police Assistant shall be done in accordance with major disciplinary procedures. See N.J.A.C. 4A:2-2.

(c) Subject to the provisions of (d) below, an employee serving permanently in the title of Police Assistant who meets one or more of the following conditions shall be removed from the Police Assistant title for cause:

1. Unsatisfactory performance rating, notwithstanding satisfactory completion of the working test period;

2. Failure to satisfactorily complete the Police Academy Special Law Enforcement Officer Class 1 Training Program, or equivalent, provided by the appointing authority;

3. Failure to meet the criteria for promotional eligibility by the announced closing date;

4. Failure to apply for the examination for the title of Police Officer when the employee meets the criteria for promotional eligibility by the announced closing date;

5. Failure of the examination for the title of Police Officer; or

6. One or more of the general causes for discipline set forth in N.J.A.C. 4A:2-2.3.

(d) In lieu of removing the employee for cause, the appointing authority alternatively may choose to transfer the

employee, in accordance with N.J.A.C. 4A:4-7.1, or otherwise move the employee, to a different, vacant title. However, under no circumstances may an employee who meets one or more of the conditions in (c) above continue to serve in the Police Assistant title.

(e) An employee serving permanently for a minimum of one year in the Police Assistant title shall be considered eligible to take a promotional examination for the title of Police Officer, provided that the employee also satisfies the criteria set forth in N.J.A.C. 4A:4-2.4 and 2.6 for promotional examinations.

New Rule, R.2006 d.104, effective March 20, 2006.  
See: 37 N.J.R. 4351(a), 38 N.J.R. 1425(a).

#### **4A:3-3.7B Correction Officer Apprentice title: State service**

(a) The appointment of an employee to the title of Correction Officer Apprentice shall be a temporary appointment from a certification of Correction Officer Recruit eligibles on an entry-level law enforcement eligible list. The purpose of this temporary appointment is to ensure that individuals so appointed shall receive training appropriate to the duties of a Correction Officer Recruit in accordance with the Police Training Act. See N.J.S.A. 52:17B-66 et seq.

(b) Notwithstanding the employee's temporary appointment in State service, the employee shall not accrue seniority for purposes of layoffs (N.J.A.C. 4A:8-2.4) or vacation leave accruals (N.J.A.C. 4A:6-1.2) while serving in the title of Correction Officer Apprentice.

(c) The length of the period of temporary appointment to the title of Correction Officer Apprentice shall be established

by the Department of Corrections; provided, however, that the length of this period shall be the same for all employees receiving the appointment from the same certification, but in no case longer than six months.

(d) Upon successful completion of the residential training program required by the Police Training Act, and in-service training provided by the Department of Corrections under the authority of the Police Training Commission, the employee serving in the title of Correction Officer Apprentice shall receive a regular appointment to the title of Correction Officer Recruit.

(e) An individual who receives a regular appointment to the title of Correction Officer Recruit in accordance with (d) above but who had permanent status in another title in State service as of the time of temporary appointment shall be considered to have been on an unpaid leave of absence from his or her original State position during the period of temporary appointment. Such permanent service prior to the leave of absence shall be aggregated to calculate the employee's seniority for layoff purposes as well as to determine his or her vacation benefit at the time of the employee's regular appointment to the title of Correction Officer Recruit.

(f) Notwithstanding any provisions in Title 4A of the New Jersey Administrative Code to the contrary, employees receiving a temporary appointment to the title of Correction Officer Apprentice shall not have any appeal rights to the Civil Service Commission during the period of temporary appointment. Such employees' sole right of appeal shall be to the Police Training Commission. See N.J.A.C. 13:1-11.

New Rule, R.2010 d.061, effective April 19, 2010.  
See: 42 N.J.R. 9(a), 42 N.J.R. 775(a).



4. The salary range for 10 month titles shall be three ranges lower than the class code.

**EXAMPLE:** A job title has been designated class code 18 through the evaluation process. The salary range will be determined based on work week and work year as follows:

Work Week	Salary Range
NL, NE	18
35, 3E	17
40, 4E, N4	19
 Work Year	
10 Month (NL or NE)	15

(c) For use of class codes in determining types of pay adjustments, see N.J.A.C. 4A:3-4.7.

#### Case Notes

Negotiations with union concerning Department of Environmental Protection's reduction of employees' workweek were preempted by statute and regulations that created comprehensive demotional layoff scheme. *State v. Communications Workers of America, AFL-CIO*, 285 N.J.Super. 541, 667 A.2d 1070 (A.D.1995), certification denied.

#### 4A:3-4.3 Job reevaluation requests and appeals: State service

(a) Appointing authorities may request a reevaluation by the Department of Personnel of a job title to determine its proper class code. The request, which shall be submitted through the agency representative, must include a brief rationale for the request, an organization chart, and the requested new salary level. The Department of Personnel may require additional information to be submitted in a manner and form as determined by the Commissioner.

(b) An appeal by an employee or authorized employee representative for a reevaluation shall be submitted, in writing, to the agency representative. The appeal must identify and explain the areas of substantive change in job content or other change in job evaluation factors through written narrative and a revised job specification, which shall be marked to indicate changes, and include evidence that the change in job content affects all employees in the title. The Department of Personnel may require additional information to be submitted in a manner and form as determined by the Commissioner.

1. The agency representative shall review the appeal and ensure that the information set forth in (b) above has been included. Within 10 days of receipt of the appeal, the appointing authority representative shall either notify the appellant that specific additional information is required, or shall forward the appeal to the Department of Personnel and so notify the appellant, and may indicate a recommended approval or rejection of the appeal for specified reasons. If additional information is required, the agency representative shall forward the appeal to the Department of Personnel within 10 days of receipt of the

appellant's response to the request for additional information.

(c) A representative of the Department of Personnel shall review the request or appeal and render a written decision. A written decision on evaluation appeals shall be rendered within 60 days of receipt of all required information. The decision letter shall include a notice of appeal rights to the Commissioner in the case of an appeal by an employee or authorized employee representative.

(d) Any affected employee or authorized employee representative may appeal the determination to the Commissioner within 20 days of its receipt. The appeal shall contain all information which was presented to the prior level, a statement identifying the specific portions of the prior level determination being contested, and the basis for appeal. The appellant shall provide copies to all parties.

(e) The Commissioner may render a decision based on the written record or appoint an independent salary reviewer. All parties, either personally, through counsel or authorized union representative, shall have the opportunity to present argument. Information and/or argument which was not presented at a prior level of appeal shall not be considered.

1. If a salary reviewer is appointed, he or she shall submit a report and recommendation to the Commissioner within 30 days after the review.

2. The report and recommendation shall be sent to all parties. Exceptions may be filed within 15 days of receipt of the report and recommendation. If exceptions are filed, cross-exceptions may be filed within 10 days of receipt of the exceptions. Exceptions and cross-exceptions shall be served on all parties.

(f) A decision by the Commissioner is the final administrative determination.

(g) If a title is approved for reevaluation, the effective date of the reevaluation shall be the first full pay period following the receipt by the Department of Personnel of a fully documented request for reevaluation under (a) above or a fully documented appeal under (b) above.

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

#### Case Notes

Pilot programs adopted by Commissioner of Department of Personnel, under which list of people who could be hired from certification would be expanded and under which length of work test period for local government employees would be increased, exceeded scope of powers constitutionally delegated to Commissioner. *Communications Workers of America, AFL-CIO v. New Jersey Dept. of Personnel*, 299 N.J.Super. 166, 690 A.2d. 695 (A.D.1997).

**4A:3-4.4 Salary rates for initial appointments: State service**

(a) An appointing authority may place a new employee at a salary step up to and including the fourth step of the salary range for the employee's title. A new employee, for purposes of this section, is one who has had no immediate prior State service with that appointing authority. See N.J.A.C. 4A:4-7.4(b) for transfers.

(b) When the employee has separated from another State appointing authority, a State college, Rutgers, the State University, the New Jersey Institute of Technology, or the University of Medicine and Dentistry of New Jersey, and has been hired without an interruption in service, the employee may be placed up to and including that step of the salary range that the employee would receive if the employee had been continuously employed in the new agency.

(c) An authorized hiring rate (AHR) is the set salary for initial appointments to particular job titles as established by the Commissioner. When an AHR is established or changed, current employees in such titles whose salaries are below the AHR shall be advanced to the AHR, and current employees in such titles whose salaries are the same as the AHR may be advanced by the Commissioner.

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

**4A:3-4.5 Anniversary dates: State service**

(a) An anniversary date is the biweekly pay period in which an employee is eligible, if warranted by performance and place in the salary range, for a salary increase.

1. An employee's anniversary date shall be assigned upon initial appointment to the first pay period following the completion of 26 full pay periods after appointment. In years which contain 27 pay periods, anniversary dates shall be determined in accordance with a schedule issued by the Department of Personnel.

EXAMPLE: An employee is appointed to a position on Monday, August 16, 1993. The first full pay period following the date of appointment is pay period 18, which begins on August 21, 1993. The employee's anniversary date is pay period 18 in calendar year 1994, expressed as 18/94.



2. An employee who starts work on the first Tuesday of a pay period immediately following a Monday holiday or special day off shall be assigned the anniversary date of that pay period.

3. An employee at the eighth step of the range only becomes eligible for advancement to the ninth step, if warranted by performance, following the completion of 39 pay periods.

(b) A current employee's anniversary date may change as a result of an advancement pay adjustment. See N.J.A.C. 4A:3-4.9. If the anniversary date is advanced based on the date of adjustment, the new anniversary date is the first pay period following the completion of 26 full pay periods after the date of that adjustment.

1. An employee's anniversary date may also change as a result of time spent in non-pay status. See N.J.A.C. 4A:3-4.6.

(c) Employees in intermittent titles shall receive initial and subsequent anniversary dates which correspond to the first pay period after completion of 1827 work hours (NL, NE, 35 and 3E titles) or 2088 work hours (40, 4E and N4 titles) in regular pay status. When an employee moves from an intermittent title, 80 hours of service in an intermittent title shall equal one pay period for 40, 4E and N4 titles and 70 hours of service in an intermittent title shall equal one pay period for NL, NE, 35 and 3E titles.

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

#### **4A:3-4.6 Anniversary date change when employee is in non-pay status: State service**

(a) Except as provided in (b) below, time spent by employees in non-pay status, including suspensions, shall not be included in total time of employment when calculating eligibility for annual increments.

1. An employee's anniversary date shall be advanced by one full pay period for each full pay period in non-pay status.

2. If an employee is in non-pay status on an intermittent basis during the course of a calendar year, the employee's anniversary date shall be advanced by one pay period for each 10 working days in non-pay status.

(b) The following periods of non-pay status shall not be deducted from earned time for purposes of calculating anniversary dates:

1. Military leave;
2. Educational leave;
3. The two month period when employees in 10 month job titles are not scheduled to work;
4. Days on which part-time employees are not scheduled to work;

5. Leave without pay following exhaustion of sick leave injury;

6. Leave without pay while receiving workers' compensation benefits;

7. Leave without pay under a voluntary alternative to layoff program;

8. Voluntary furlough; and

9. Furlough extension leave.

(c) When an employee returns from one full pay period or more in non-pay status, or when an employee accumulates 10 or more working days in non-pay status on an intermittent basis, the appointing authority shall notify the Department of Personnel and the employee in writing that the anniversary date is to be changed. If an alternate workweek plan has been established, consideration of the adjusted hours per day must be made when counting the number of work days in non-pay status.

(d) Intermittent days without pay which total less than 10 shall not be carried forward to the next calendar year.

Amended by R.1993 d.424, effective September 7, 1993.

See: 25 N.J.R. 1916(a), 25 N.J.R. 4064(a).

Amended by R.1995 d.12, effective January 3, 1995.

See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).

Administrative correction.

See: 27 N.J.R. 2577(b).

#### **4A:3-4.7 Determining types of pay adjustments: State service**

When an employee moves to a different title, including a change in workweek and/or work year, the type of pay adjustment shall be determined according to class code change as follows:

Compared to Old Title	Class Code of New Title Type of Pay Adjustment	Applicable Section
Same	Lateral	N.J.A.C. 4A:3-4.8
Higher	Promotion, upward title reevaluation, and other advancements	N.J.A.C. 4A:3-4.9
Lower	Demotion	N.J.A.C. 4A:3-4.10
	Downward title reevaluation	N.J.A.C. 4A:3-4.11

#### **Case Notes**

Negotiations with union concerning Department of Environmental Protection's reduction of employees' workweek were preempted by statute and regulations that created comprehensive demotional layoff scheme. *State v. Communications Workers of America, AFL-CIO*, 285 N.J.Super. 541, 667 A.2d 1070 (A.D.1995), certification denied.

#### **4A:3-4.8 Lateral pay adjustments: State service**

(a) A lateral pay adjustment occurs when an employee moves to a title having the same class code. An employee affected by such lateral pay adjustment shall not be considered to have been promoted or demoted, even if actual salary changes.

(b) Employees affected by a lateral pay adjustment shall have their pay adjusted to the same step in the salary range of

the new title as that step at which they were paid in the salary range of the former title. The employee's anniversary date shall not be changed.

**EXAMPLE:** An employee currently on step four, salary range A10 (\$15,800.94), in a 35-hour workweek title (class code 11), is appointed to a 40-hour workweek title in class code 11. The new salary range will be A12, and the employee will be placed on step four (\$17,415.44). **NOTE:** Salaries effective September 12, 1987.

(c) When a workweek change occurs for an employee whose salary is between steps of the range, the following calculation shall be made to accommodate the workweek adjustment. Divide the amount of extra salary by the amount of the increment of the employee's current salary range. This will provide a percentage of the current increment represented by the extra salary. Adjust the employee's salary to the new range at the same step. Calculate the amount of extra salary by applying the percentage arrived at above to the increment of the new range.

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

#### 4A:3-4.9 Advancement pay adjustments: State service

(a) Employees who are appointed to a title with a higher class code shall receive a salary increase equal to at least one increment in the salary range of the former title plus the amount necessary to place them on the next higher step in the new range, unless a different salary adjustment is established in a collective negotiations agreement, except that in no event shall such adjustment result in a higher salary than that provided for in this section. If the workweek changes, workweek adjustments will be made prior to the determination of anniversary date. If the workweek increases, workweek adjustments will be made prior to salary determination. (See (f) below). This subsection shall apply when the following conditions are met:

1. Employees are appointed from their permanent title to a title with a higher class code following or subject to a promotional examination;
2. Employees are serving in a title which is reevaluated to a higher class code; or
3. Employees are appointed to a title with a higher class code, when the conditions in (a)1 or 2 above are not applicable, provided the Civil Service Commission finds the following criteria are met:
  - i. The employee has served continuously in the lower title for at least four months immediately preceding the effective date of the advancement; and
  - ii. The service in the lower title provided significant preparation and training for service in the higher title.

(b) When an employee is advanced to a title with a salary schedule which is different (dollar value of ranges and steps do not coincide) from the employee's previous salary sched-

ule, the steps described in (a) above are first performed in the previous schedule, and then the employee's salary is set at the lowest step in the new schedule and range that equals or exceeds that salary.

(c) When an employee has been at the maximum of his or her previous salary range for at least 39 pay periods, and the salary increases after workweek adjustment would be less than two increments in the employee's previous range, the employee shall receive an additional increment in the new range, providing the employee is not already at the maximum of the new range.

(d) Employees who do not meet the criteria set forth in (a) above shall be placed on a step in the salary range of the title with the higher class code that is the same or next higher than the salary paid in the title with the lower class code.

1. The adjustments described in (b) and (c) above shall be applied as appropriate.

(e) The anniversary date will be retained if the total salary increase after workweek adjustment is less than two increments in the employee's previous range. If the total salary increase after workweek adjustment is two increments or more, or the advancement results in step eight or nine, the anniversary date will be determined by the effective date of the action (frozen if step eight or nine).

(f) The workweek adjustment is computed by finding the workweek adjusted range, according to the following chart, and then placing the employee on the same step in the workweek adjusted range as the employee's step in the former range.

#### WORKWEEK OF EMPLOYEE'S NEW TITLE

Workweek of Employee's Former Title	35 or 3E	35 or 3E NO CHANGE	NL or NE +1 SALARY RANGE	40, 4E or N4 +2 SALARY RANGES
	NL or NE	-1 SALARY RANGE	NO CHANGE	+1 SALARY RANGE
	40, 4E or N4	-2 SALARY RANGES	-1 SALARY RANGE	NO CHANGE

**EXAMPLE:** An employee on step four in salary range A10 in a 35-hour week title is appointed to a 40-hour week title. Adjusting salary range A10 (35 hours) to the 40-hour week (+2 salary ranges) will result in a range A12, step four.

(g) When an employee's work year changes, a work year adjustment shall first be performed before making any other adjustments under this section. The work year adjustment is computed by placing the employee in the same step three ranges up, when work year is increased from 10 to 12 months, or three ranges down, when work year is decreased from 12 to 10 months.