

TITLE 4A

DEPARTMENT OF PERSONNEL

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 The rules contained in Title 4 of the New Jersey Administrative Code, Department of Civil Service, were repealed pursuant to several rulemakings from 1987 to 1990 and new rules of the Department of Personnel were adopted and codified in Title 4A.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, 47:1A-2, 52:14B-3(1), 52:14B-3(3), 52:14B-4(f), Executive Order No. 11(1974).

Source and Effective Date

R.1992 d.416, effective September 22, 1992.
See: 24 N.J.R. 2490(a), 24 N.J.R. 3715(a).

Executive Order No. 66(1978) Expiration Date

Chapter 1, General Rules and Department Organization, expires on September 22, 1997, except Subchapter 5, Disability Discrimination Grievance Procedure, which is exempt from Executive Order No. 66 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 See, also, Historical Notes at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 1 through 4. Pursuant to Executive Order No. 66(1978), Chapter 1 was readopted as R.1992 d.416. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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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

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 carried 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 purpose 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.

Law Review and Journal Commentaries

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

Case Notes

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 Com-
missioner 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).

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).

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).

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 per-
sons having power of appointment or removal.

“Appointment” means the offer, acceptance and com-
mencement 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 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 de-
fined 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 depart-
ment 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 applica-
tion 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, 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 subdi-
vision operating under Title 11A, New Jersey statutes.

“Open competitive examination” means a test open to
members of the public who meet the prescribed require-
ments for admission.

“Part time employee” means an employee whose regular
hours of duty are less than the regular and normal work-
week for that job title or agency.

“Permanent employee” means an employee in the career
service who has acquired the tenure and rights resulting
from regular appointment and successful completion of the
working test period.

“Position” means the assignment of specific duties and
responsibilities requiring the employment of one person.

“Promotion” means, in local service, an advancement in title, and in State service, an advancement to a title having a higher class code than the former permanent title.

“Promotional examination” means a test open to permanent employees who meet the prescribed requirements for admission.

“Provisional appointment” (PA) means employment in the competitive division of the career service pending the appointment of a person from an eligible list.

“Regular appointment” (RA) means the employment of a person to fill a position in the competitive division of the career service upon examination and certification, or the employment of a person to a position in the noncompetitive division of the career service.

“Removal” means termination of a permanent employee from employment for disciplinary reasons.

“Senior executive service” means positions in State service designated by the Board as having substantial managerial, policy influencing or policy executing responsibilities not included in the career or unclassified services.

“State service” means employment for the State of New Jersey.

“Suspension” means temporary separation from employment for disciplinary reasons.

“Title” means a descriptive name that identifies a position or group of positions with similar duties, responsibilities, and qualifications.

“Title scope” means a defined group of job titles used as a factor in determining eligibility for promotional examinations. Title scope may also include educational, experience and other specific requirements.

“Title series” means titles involving the same kind of work and ranked according to level of difficulty and responsibility.

“Unclassified service” means those positions and job titles outside of the senior executive service, not subject to the tenure provisions of Title 11A, New Jersey Statutes or these rules unless otherwise specified.

“Unit scope” means a defined part of a governmental agency used as a factor in determining eligibility for promotional examinations.

“Working test period” means a part of the examination process after regular appointment, during which time the

work performance and conduct of the employee is evaluated to determine if permanent status is merited.

Amended by R.1988 d.258, effective June 6, 1988.
See: 20 N.J.R. 326(a), 20 N.J.R. 1183(a).

Added definitions “Closing date for examination”, “Filing date for examination”, “Title scope” and “Unit scope”.

Amended by R.1988 d.415, effective September 6, 1988.
See: 20 N.J.R. 845(b), 20 N.J.R. 2255(a).

Added the definition “Department”.

Amended by R.1992 d.416, effective October 19, 1992.

See: 24 N.J.R. 2490(a), 24 N.J.R. 3715(a).

Revised definition “demotion”.

Law Review and Journal Commentaries

Civil Service—Administrative Procedure—Counties—Municipalities.
Judith Nallin, 134 N.J.L.J. No. 17, 50 (1993).

Case Notes

“Local government service” includes employees of county prosecutor and sheriff’s office (citing former rule N.J.A.C. 4:1-2.1). *Gudgeon v. County of Ocean*, 135 N.J.Super. 13, 342 A.2d 553 (App.Div.1975) certification granted 70 N.J. 138, 358 A.2d 185.

Enrollment in retirement system is neither immediate nor automatic (citing former N.J.A.C. 4:1-2.1). *Frew v. Bd. of Trustees Public Employees’ Retirement System*, 8 N.J.A.R. 16 (1984).

4A:1-1.4 Petition for promulgating, amending or repealing rules

(a) Any interested person may file a petition with the Commissioner to promulgate, amend or repeal a rule.

(b) A petition must include the reasons for the request.

(c) A petition for a new rule must include the substance or nature of the request, the proposed text of the new rule and the statutory authority under which the requested action may be taken.

(d) A petition for an amended rule must indicate any existing text to be deleted and include any new text to be added.

(e) The Commissioner shall, in writing, either deny the petition or approve the petition for processing.

(f) Notice of the petition and the Commissioner’s decision shall be filed with the Office of Administrative Law pursuant to N.J.A.C. 1:30-3.6.

SUBCHAPTER 2. RECORDS

4A:1-2.1 Department of Personnel access to appointing authority records and information

Appointing authorities shall provide Department of Personnel representatives free access to their premises and to requested records and information.

4A:1-2.2 Public records

(a) The following Department of Personnel records shall be public:

1. An individual's name, title, salary, compensation, dates of government service and reason for separation;
2. Information on specific educational or medical qualifications required for employment;
3. Final orders of the Commissioner or Board; and
4. Other records which are required by law to be made, maintained or kept on file.

(b) Individual personnel records, except as specified in (a)1 through 3 above, are not public records and shall not be released other than to the subject employee, an authorized representative of the employee, or governmental representatives in connection with their official duties.

(c) See N.J.A.C. 4A:4-2.16 concerning examination records.

Amended by R.1992 d.416, effective October 19, 1992.
See: 24 N.J.R. 2490(a), 24 N.J.R. 3715(a).
Revised (b); added new (c).

SUBCHAPTER 3. ORGANIZATION**4A:1-3.1 General provisions**

(a) The Department of Personnel is constituted as a principal State Department consisting of the:

1. Commissioner of Personnel;
2. Merit System Board; and
3. Such subdivisions as the Commissioner may deem necessary.

4A:1-3.2 Commissioner of Personnel

(a) The Commissioner of Personnel shall:

1. Serve as chairperson of the Merit System Board;
2. Serve as principal executive and request officer of the Department;
3. Maintain a management information system to implement Title 11A, New Jersey Statutes;
4. Establish necessary programs and policies for the State and local service;
5. Assist the Governor in personnel and labor relations;
6. Render final administrative decisions on appeals of classification, salary, layoff rights and State noncontractual grievances;

7. Establish and consult with advisory board representing political subdivisions, personnel officers, labor organizations and other appropriate groups;

8. Make required reports to the Governor and Legislature;

9. Approve appointments in the State and local service; and

10. Perform such other duties as prescribed by law and these rules.

Case Notes

Powers and duties; approval of classification plans. Gloucester Cty. Welfare Bd. v. N.J. Civ. Serv. Comm'n., 93 N.J. 384, 461 A.2d 575 (1983) and (dissenting opinions).

4A:1-3.3 Merit System Board

(a) The Merit System Board shall:

1. Hold a public meeting at least once each month, except August, at which three members shall constitute a quorum;

2. Render final administrative decisions on appeals and on other matters referred by the Commissioner, except for those matters listed in N.J.A.C. 4A:1-3.2(a)6 or delegated to the Commissioner;

3. Adopt rules for implementing Title 11A, New Jersey Statutes after public hearing, except that a public hearing shall not be required for the adoption of emergency rules. See N.J.A.C. 1:30-4.5 for Office of Administrative Law emergency rule adoption procedures;

4. Interpret the application of Title 11A, New Jersey Statutes, to any public body or entity; and

5. Perform such other duties as prescribed by law and these rules.

Amended by R.1992 d.416, effective October 19, 1992.
See: 24 N.J.R. 2490(a), 24 N.J.R. 3715(a).
Revised (a)2.

Case Notes

Autonomous political subdivisions; relationship of Civil Service Act to firemen. Oughton v. Board of Fire Comm'rs, etc., 168 N.J.Super. 434, 403 A.2d 69 (Law Div.1979) on reconsideration 178 N.J.Super. 633, 429 A.2d 1096 (Law Div.1980) affirmed in part, reversed in part 178 N.J.Super. 565, 429 A.2d 1059, certification denied 87 N.J. 367, 434 A.2d 1055.

Discretion of Civil Service Commission to hold open competitive exams. State v. State Supervisory Employees Association, 78 N.J. 54, 393 A.2d 233 (1978).

Jurisdiction. City of Hackensack v. Winner, 162 N.J.Super. -1, 392 A.2d 187 (App.Div.1978) mod. on other ground 82 N.J. 1, 410 A.2d 1146 (1980).

Power of local service employer to effect out of class temporary transfer. In re Appeal of Lembo, 151 N.J.Super. 242, 376 A.2d 971 (App.Div.1977).