

CIVIL SERVICE RULES

REVISED APRIL 15, 1971

UNOFFICIAL
SUPPLEMENT

**INCLUDING CHANGES AND CORRECTIONS
THROUGH FEBRUARY 1, 1973**

EXPLANATION

This Supplement contains changes in the Civil Service Rules, Revised April 15, 1971 adopted by the New Jersey Civil Service Commission pursuant to the authority delegated in N.J.S.A. 11:5-1 and corrections of printing errors.

This unofficial Supplement printed for convenient reference contains changes and corrections which include:

4:1-1.3	4:1-8.14	4:1-13.1
4:1-2.1; "Veteran"	4:1-8.15	4:1-15.2
4:1-3.7	4:1-8.16	4:1-15.6
4:1-3.8	4:1-8.18	4:1-16.4
4:1-5.6	4:1-11.4	4:1-16.13
4:1-6.2	4:1-11.7	4:1-16.14
4:1-6.3	4:1-12.1	4:1-17.8
4:1-6.5	4:1-12.2	4:1-17.16
4:1-7.3	4:1-12.6	4:1-17.17
4:1-8.3	4:1-12.10	4:1-20.2
4:1-8.6	4:1-12.12	4:1-21.2
4:1-8.10	4:1-12.15	4:1-23.4
4:1-8.12	4:1-12.17	

Please keep this Supplement with your copy of the Civil Service Rules, Revised April 15, 1971.

RULE CHANGES

4:1-1.3 Amendments

The Commission may prescribe, amend or rescind any rule at any time after holding a public hearing thereon. Public notice of the place and time of said hearing shall be published by the Commission at least 5 business days prior to the date of said hearing.

4:1-2.1 Words and phrases defined

"Veteran" means a person who, before the announced closing date for filing applications for a test for a position in the competitive division or before appointment to a position in the noncompetitive or labor divisions, presents evidence that he was:

(a) A soldier, sailor, marine, airman, nurse or army field clerk who served in the active United States military or naval service and has been discharged or released therefrom under conditions other than dishonorable, in the several wars, uprisings, insurrections or expeditions enumerated in N.J.S.A. 11:27-1, including the most recent as follows:

1. The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

2. The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

3. World War I between April 6, 1917 and November 11, 1918;

4. World War II, after September 16, 1940 and ending September 2, 1945, conditioned as follows:

i. Such persons must have served at least 90 days of active service beginning on or before the terminal dates of World War II or the Korean Conflict respectively;

ii. Such minimum 90 day period shall not include any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of his civilian course, nor shall it include any time spent as a cadet or midshipman at one of the service academies;

iii. Any such person receiving a service incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 day service.

5. Korean Conflict, after June 23, 1950 and ending July 27, 1953, conditioned as provided in paragraph 4 of this definition;

6. Vietnam Conflict, at least 90 days active service commencing after December 31, 1960 and on or before the date of termination as proclaimed by the Governor and conditioned as follows:

i. Such minimum 90 day period shall not include any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of his civilian course, nor shall it include any time spent as a cadet or midshipman at one of the service academies;

ii. Any person receiving a service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days service, or

(b) An honorably discharged soldier, sailor, marine or nurse who served in any army or navy of the United States allies in World War I between July 14, 1914 and November 11, 1918, or World War II between September 1, 1939, and September 2, 1945, and who:

1. Was inducted into such military service through voluntary enlistment; and

2. Was a United States citizen at the time of enlistment; and

3. Did not, during or by reason of such service renounce or lose his United States citizenship.

Veteran shall also mean the widow of a veteran, as hereinafter defined, until she remarries.

4:1-3.7 Powers and duties of the President

The President is by law the presiding officer of the Commission, and the principal executive and request officer of the Department and is authorized to:

(a) Perform, exercise and discharge all executive functions, powers and duties vested in the Commission;

(b) Exercise general supervision over all activities carried on under the Civil Service Law;

(c) Appoint all necessary personnel;

(d) Nominate for appointment by the Governor members of the New Jersey State Employees' Award Committee, supervise and direct the establishment and conduct of plans for award programs and render an annual report to the Governor;

(e) Approve all expenditures of appropriated funds;

(f) Have discretion to extend the probationary period in the State service for two months beyond the required four months;

(g) Restore to an employment list the name of a person who is removed at the end of the probationary period but who may be suitable for employment in another organization unit;

(h) Approve renewal or extension of leave of absence without pay beyond 12 months in local government service;

(i) Approve, subject to specific statutory limitations, transfers of employees from the State service to a county service and from a county service to the State service;

(j) Prescribe the newspapers in which advertisement of the availability of the Civil Service Examination Bulletin shall be made and other public notices shall be published;

(k) Certify to county courts any disobedience to or neglect of a subpoena issued by the Commission;

(l) Approve the establishment of temporary positions in the State service and authorize appointments thereto;

(m) Prescribe forms and procedures required to implement the Civil Service Statute and regulations;

(n) Make an annual report to the Governor, which shall include the undertakings and accomplishments of the Department together with any suggestions and recommendations for the more effectual accomplishment of the purposes of the Civil Service Law.

4:1-3.8 Powers and duties of the Chief Examiner and Secretary

The Chief Examiner and Secretary, as required by law, shall act as secretary to the Commission, attend all regular and special meetings, record minutes of its official proceedings and other official acts, and certify to the same when required. In addition, and under the direction and supervision of the President, he shall:

(a) Be the administrative officer of the department and direct and supervise the work of all persons employed by the department, with authority to delegate his duties where necessary;

(b) Administer the work of the Commission and these rules, establishing such administrative regulations and controls as may be necessary;

(c) Make recommendations relative to matters of policy and for necessary amendments to these rules;

(d) Investigate from time to time, as directed, the effect of the administration of Title 11, Civil Service, and these rules and report his findings and recommendations to the President or Commission;

(e) Prepare the Departmental budget and administer generally the expenditure of appropriated funds;

(f) Administer oaths and, through subpoenas issued by the Commission, compel the attendance of witnesses in this State and the production of books and papers pertinent to investigations, inquiries or hearings which he may be authorized to conduct;

(g) Investigate the need for existing positions and new positions which may be created in the State service and report the findings of such investigations together with pertinent recommendations, to the President;

(h) Classify positions on the basis of descriptions of the duties, responsibilities, levels of authority and job audits, prepare and recommend for Commission approval classification plans together with rules for their administration, administer classification plans, and maintain specifications for each class;

(i) For positions in the State classified service, make compensation studies and recommend for Commission approval schedules of compensation together with rules for their administration, which shall include methods of computing pay for part-time employees, regulating living and sustenance allowances, allowances of employees in attendance upon courts and administrative investigations, and for regulating extra compensation on special projects and, after approval, see that such schedules and rules are observed;

(j) Recommend for Commission approval and, after approval, administer regulations regarding annual sick and vacation leaves and in State service holidays, hours of work, attendance, and special leaves of absence with or without pay or with reduced pay;

(k) Maintain a roster of all persons employed in the classified service by the State and the respective local governments, showing for each person the date of appointment or employment, position title, rate of compensation, increases and decreases in pay, changes in title, transfers, promotions, demotions, leaves of absence, disciplinary actions, reinstatements, terminations and any other facts which he may consider desirable and pertinent;

(l) Maintain a roster of all positions in the State and the respective local government services allocated to the unclassified service together with the legal basis for such classification;

(m) Establish and administer procedures in order to:

1. Determine the examinations to be conducted, the subjects to be covered in each examination, the methods of testing and the relative weights and the minimum eligibility requirements of applicants;

2. Prepare and issue or after approval cause to be prepared and issued Civil Service Examination Announcement Bulletins or other Civil Service examination announcements, including pertinent information and instructions for applicants, and receive and process applications;

3. Prepare the content or questions to be used in each examination, together with the standards or key answers;

4. Make arrangements for and supervise the conduct of examinations, appointing experts, special examiners and other persons as he may deem necessary;

5. Grade the examination papers or other test work of applicants and evaluate their qualifications;

6. Establish employment lists, regular reemployment lists and special reemployment lists and certify or after review and approval authorize certification to the appointing authority from such lists the names of persons eligible for employment, promotion or reemployment;

7. Pass upon and determine questions concerning the admission of applicants to examinations, the certification of names of eligible persons, and all other questions arising during the course of an examination;

(n) Devise, install and administer performance rating systems and training courses for State employees and review performance rating systems adopted by local governments;

(o) Review and require compliance with the law and these rules in all cases involving provisional and emergency appointments, transfers, layoffs, demotions, suspensions, removals, and retirements or other separations of employees from their employment;

(p) Establish, install and administer procedures for checking and certifying payrolls; and

(q) Make such reports as may be requested by the Commission or the President, and perform all other functions necessary for the proper implementation of the Civil Service Law and these rules, including such additional duties as may be assigned to him from time to time by the Commission or the President.

4:1-5.6 Execution of relief

(a) When the relief to be accorded to the petitioner does not require that a hearing be held, the Commission shall issue appropriate orders or directives to effectuate its determination and mail true copies thereof to the petitioner and other parties affected thereby.

(b) When the relief to be accorded to the petitioner provides that a hearing be held by the Commission, it shall:

1. Determine whether the hearing is to be heard by the Commission as a body or by one or more members which it shall designate;

2. Determine whether the hearing is to be in the nature of a public hearing requiring the issuance of public notices or a private hearing which may be restricted or open to the public but requiring notices only to the petitioner and other affected parties;

3. Set the matter down for hearing.

(c) When the hearing is to be conducted by a hearing officer designated and appointed by the President of the Commission, it will adhere to the procedures outlined in Subchapter 5 (Hearings) of this Chapter, except that:

1. Copies of the report and recommendations of hearing officers must be prepared and submitted to the Commission in the written form described in Section 5.11 (Findings and decision) of this Chapter within 10 days of return of the transcript of the hearing.

2. Copies of the Hearing Officer's Report and Recommendations will be served promptly on all parties to the proceeding. Copies of any exceptions to the Hearing Officer's Report and Recommendations and any supporting briefs may be filed by any party with the Commission within ten (10) days after the service of the report and recommendations, provided, however that the President of the Commission may for good cause shown extend the time for filing such exceptions. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such services shall be furnished to the Commission.

3. Exceptions to a Hearing Officer's Report and Recommendations shall:

- i. Cite the precise findings of fact, conclusion, or procedure to which exceptions are taken;

- ii. Identify that part of the Hearing Officer's Report and Recommendations to which objection is made;

- iii. Cite the precise portions of the transcript relied on and state the grounds for the exceptions.

4. Any exception to a finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded. Any brief in support of exceptions shall contain no matter not included within the scope of the exceptions.

5. Cross-exceptions and supporting briefs may be filed within ten (10) days of the end of the period for filing exceptions, provided, however that the President of the Commission may for good cause shown extend

this time limit. Copies of same shall be served simultaneously on all other parties, and a statement of such services, and copies of such briefs and cross-exceptions shall be furnished to the Commission.

6. Copies of the Hearing Officer's Report and Recommendations and any exceptions, answering briefs, or cross-exceptions received will be presented to the Commission.

7. The Commission, either as a body or by one or more members which it shall designate, after consideration of the Hearing Officer's Report and Recommendations and any briefs or exceptions, will amend, modify, reject or adopt the Hearing Officer's Report and Recommendations and issue the Commission's decision to all parties.

4:1-6.2 Administration of position classification plans

(a) The Chief Examiner and Secretary shall put into effect and administer position classification plans approved by the Commission and in this regard, shall:

1. Require the approved class titles be used in all official records and communications relating to personnel, including payrolls and budgets;

2. Classify new positions and reclassify existing positions to reflect current conditions as determined by job audit or job description;

3. Approve specifications for new classes and modifications of specifications for existing classes to insure their accuracy; and

4. Notify appointing authorities and other affected persons of changes in position classification plans and of official actions taken in such matters;

5. In State service make recommendations concerning:

i. The establishment, continuation or abolition of individual positions; and

ii. The establishment and allocation of new classes and the revision, abolition or reallocation of existing classes.

(b) Appointing authorities shall promptly notify the Chief Examiner and Secretary of new positions to be established, the authority 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.

4:1-6.3 Classification of positions

(a) Each position in the classified service shall be assigned to a class in the position classification on the basis of the character and level of difficulty of its assigned duties and responsibilities. Positions shall be assigned to the same class when their duties and responsibilities are sufficiently similar that:

1. The same descriptive title may be used to designate each position in the class;
2. The same qualifications may be required for employees;
3. Similar tests of merit and fitness may be used to select employees; and
4. The same schedule of compensation may be applied with equity.

(b) Should the employee or the appointing authority disagree with the classification of a position, an appeal may be made by either within 20 days of notification of the action to the Department of Civil Service. A final determination on the appeal shall be made by the Chief Examiner and Secretary unless he refers the matter to the Civil Service Commission as provided in Section 3.5(i) (Powers and duties of Commission) of this Chapter.

4:1-6.5 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 of other positions in the same class and the class title is no longer appropriate, the Chief Examiner and Secretary shall after review:

1. Reclassify the position to a more appropriate class title if there is one;
2. In local government service establish a new class title to which the position shall be reclassified; or
3. In state service recommend to the Commission the establishment of a new class title to which the position shall be reclassified.

(b) No reclassification of any position shall become effective until the Chief Examiner and Secretary has so advised the appointing authority and the employee holding the position.

1. Any change in the classification of an employee's position as a result of a reclassification shall be administered in accordance with these rules pertaining to the type of change to be effected after the appointing authority has had the opportunity to reassign the employee to the duties and responsibilities to which he has permanent rights.

2. Should the change as a result of the reclassification adversely affect an employee or should the appointing authority disagree with the reclassification, an appeal may be made by either within 20 days of notification of the action to the Department of Civil Service. A final determination on the appeal shall be made by the Chief Examiner and Secretary unless he refers the matter to the Civil Service Commission as provided in Section 3.5(i) (Powers and duties of Commission) of this Chapter.

4:1-7.3 Administration of compensation plan

(a) In the State service:

1. Employees shall begin at the minimum rate of the pay range assigned to their classification unless the competitive rate for hiring in that position or class has been determined by the Salary Adjustment Committee to be at a higher rate in the range. The Salary Adjustment Committee shall consist of the President of the Civil Service Commission, the State Treasurer, and the Director, Division of Budget and Accounting.

2. The Civil Service Commission shall establish regulations for normal increments. These shall be regular periodic increases within the salary range, subject to available appropriation based on a period of service and performance rating.

3. Any employee who is in a class in which the range has been revised or who is transferred, demoted, downgraded or promoted or a former employee who is reemployed in a position may be paid at the rate provided by regulations established by the Civil Service Commission.

4. No employee shall be paid above the maximum of the range for his class, except under certain circumstances as designated by regulations issued from the Civil Service Commission or the Salary Adjustment Committee.

(b) In local service the administration of the compensation plan shall be in accordance with the provisions of that plan as established by the local jurisdiction.

The Department of Civil Service shall enforce the requirement of consistent and equitable administration of such compensation plans, and, except as qualified because of reclassification and approved by the Commission, no employee shall be paid below the minimum or above the maximum of the range for his class.

4:1-8.3 Notice of examinations

(a) Notice of open competitive examinations shall be given by:

1. Announcements displayed at the Offices of the Commission;

2. Announcement in the Civil Service Examination Announcement Bulletin or other civil service examination announcement at least two weeks before the closing date for filing applications;

3. Advertisement of the availability of the Civil Service Examination Announcement Bulletin prior to each publication date;

i. For positions in the State service, at least once in three daily newspapers of general circulation in the state;

ii. For positions in the local government services, at least once in the newspapers of general circulation throughout the State and any county, municipality, or school district as the Commission shall prescribe.

(b) Individual notices of each promotion examination and an application form shall be provided by the Department of Civil Service or through the appointing authority to each employee qualified for admission to such examination.

(c) Notices of examinations shall include:

1. The title of the class for which the examination is to be held;

2. The salary rate or range;

3. A reference to duties and responsibilities;
4. Established minimum qualification requirements for admission of applicants;
5. The parts and respective examination weights;
6. Information concerning the filing of applications.

4:1-8.6 Qualifications for promotional examinations

In order to qualify for promotional examination an applicant:

(a) Must meet all the qualifications of Section 8.8 (Qualifications of applicants for open competitive examinations) of this Chapter except that the residency requirement shall not be applicable unless required by law;

(b) Must be a permanent employee in a class to which the examination is opened by the announced closing date for filing applications and unless otherwise provided by regulation shall have been employed continuously after regular appointment in such lower class for at least one year immediately preceding the announced closing date;

(c) Must be in active employment in a class as approved by the Chief Examiner and Secretary on the announced closing date for filing applications, and remain until the employment list is issued, except that absence from such active employment shall not disqualify an applicant otherwise qualified who:

1. Is on an approved leave with pay or on sick leave without pay;
 2. Is on military leave;
 3. Is on a temporary assignment or temporary transfer within the same or to a different organization unit as the case may be;
 4. Is on educational leave;
 5. Is assigned or detailed to another governmental unit pursuant to any Federal or State employee interchange act;
 6. Is promoted to another class title in the same organization unit;
- or
7. Is on suspension.

4:1-8.10 Questions not to be asked

No question in any application for examination or in any examination shall be so framed as to elicit or attempt to elicit information concerning the political or religious opinions or affiliations, or the race, color or national origin, place of birth or ancestry of any applicant, competitor or eligible person. The age of the applicant may be asked only where it is required for the position by law and where it is lawfully an occupational requirement.

4:1-8.12 Time for filing applications

(a) The Chief Examiner and Secretary shall determine and include or cause to be determined and included in the public announcement of every examination a closing date for the filing of applications except in continuous recruitment. Applications not received within the prescribed time limit will not be accepted, except that applications sent by mail will be accepted if postmarked on the last day for filing and actually received before the examination is held.

(b) The period for filing applications may be extended or reopened by direction of the Chief Examiner and Secretary, provided that such action shall be properly advertised, or in the case of promotion examinations posted.

(c) The time of receipt shall be recorded on each application and this record shall be conclusive in any dispute concerning the time of filing.

4:1-8.14 Action against prospective employees

(a) The Chief Examiner and Secretary shall take the following actions for any cause listed in subsection (b) of this section or for any other good cause:

1. Reject the application of a person for admission to an examination;
2. Refuse to test an applicant;
3. Refuse to place the name of a person on the employment list;
4. Refuse to certify the name of an eligible person; or
5. Remove from the employment list the name of an eligible person.

(b) Any of the following shall constitute good cause for such action by the Chief Examiner and Secretary against any prospective employee who:

1. Lacks the established qualification requirements for the position or employment for which he applies;

2. By law, is ineligible for appointment or employment in the position;

3. Is physically or mentally unfit to perform effectively the duties of the position;

4. Is addicted to the excessive use of drugs, narcotics or intoxicating beverages;

5. Has been convicted of any crime or other unlawful offense or has committed any act involving moral turpitude or infamous or disgraceful conduct;

6. Has been removed or has resigned not in good standing or has resigned in lieu of removal from the public service, or whose record of employment, public or private, has been unsatisfactory for any reason which casts substantial doubt upon the person's capacity to perform satisfactorily the duties of the position for which the application has been filed or the test held;

7. Has made a false statement of any material fact or attempted any deception or fraud in any civil service application, examination or in any information submitted to secure eligibility or appointment; or

8. Refuses to execute any oath prescribed by law.

(c) The Chief Examiner and Secretary may admit to an examination and subsequently, with the concurrence of the appointing authority, certify as eligible for employment any person who is ineligible under paragraphs 5, 6, and 7 of subsection (b) of this Section, but who has been rehabilitated to the extent that such employment would not be against the public interest. In accordance with N.J.S.A. 40A:14-9 and 40A:14-122, this exception shall not apply to police and fire positions, nor shall this exception extend to local government service situations when such exception is specifically precluded by law.

(d) No person suffering a physical defect due to injury incurred in the armed services shall be discriminated against because of such defect unless the Commission considers the defect incapacitating.

(e) The rejection of an application or other action against any person, under this rule, shall not be effective until the person is notified in writing of such action, together with the reasons therefor.

4:1-8.15 Right of review

(a) Any person who is aggrieved by a ruling or determination of the Chief Examiner and Secretary concerning a matter listed under Section

8.14 (Action against prospective employees) of this Chapter shall be afforded an opportunity to submit facts to the Commission in writing within 20 days after receipt of notice of such ruling or determination for consideration in a review of the determination.

(b) No such request for review shall stay or prevent the promulgation of an employment list or certification or appointment of an eligible person unless ordered otherwise by the Commission.

4:1-8.16 Admission to examination pending review

At the discretion of the Chief Examiner and Secretary, a person whose application for examination has been rejected and who has filed a request for review of such rejection may be admitted to the examination, pending final disposition of the request for review. Such admission shall be without prejudice and, while the review is pending, the test papers and any other examination materials of the applicant shall not be processed.

4:1-8.18 Applications retained for Commission

Applications for examinations, when properly filed, shall be retained in the manner authorized by regulation of the Department of Civil Service at least for the duration of the list. Documentary evidence or other proof submitted in support of an application may be returned to the applicant.

4:1-11.4 Duration of eligible lists

(a) Employment lists shall be promulgated, as provided by law, for periods of not less than six months for the State service and one year for local government services nor for more than three years in either case.

(b) Unless the Commission, by regulation or other directive, specifies the period for which any employment list or lists shall be promulgated, within said statutory limitations:

1. Employment lists resulting from open competitive examinations shall be promulgated for three years; and

2. Employment lists resulting from promotion examinations shall be promulgated for three years for local government lists and two years for State lists.

(c) Each employment list shall set forth the dates of its promulgation and expiration and it shall continue in effect for such period, except insofar as it may be:

1. Cancelled by the President for reasons of fraud or illegality in any process or proceeding leading up to its promulgation; or
2. Terminated in accordance with Section 11.5 (Termination of employment lists) of this Chapter.

(d) Special reemployment lists shall continue in force indefinitely.

(e) Eligibility for reemployment of a person whose name appears on a regular reemployment list shall not continue for a period longer than two years from the date of resignation.

4:1-11.7 Limited revival of expired employment lists

(a) The institution of an appeal to the Commission or a court action concerning the legality or status of an employment list shall not stop the running of time on such list and it shall expire, in the ordinary course, at the end of the period for which it was promulgated; provided, however, an employment list, in litigation or before the Commission, which expires while the appeal is pending shall be revived by the Chief Examiner and Secretary upon the subsequent entry of judgment favorable to a claimant in the court action, or favorable action by the Commission. Such revival shall be limited to the purpose of permitting execution of the judgment of the court or order of the Commission.

(b) The Commission may also revive an employment list beyond its expiration date if there has occurred bona fide error which has unjustly denied any eligible of certification or appointment.

4:1-12.1 Certification against provisional appointment or request for certification

(a) Appointments shall be made to or employment given in all positions in the competitive class, except as otherwise provided by these rules, from among those certified or after review and approval from among those listed on the certification to the appointing authority as authorized by the Department of Civil Service.

(b) When a vacancy in a permanent position is to be filled other than by transfer or demotion, the appointing authority shall notify the Department of Civil Service and request a certification of the names of persons eligible for appointment and willing to accept employment in the position.

(c) All such notifications shall be submitted as far in advance as possible, to enable the Department of Civil Service after review and approval to make the necessary certification or authorization of certification or advise that there is no applicable eligible list.

(d) When a provisional appointment is made or continued the Department of Civil Service shall certify or after review and approval authorize a certification from the appropriate list as soon as such list becomes available.

4:1-12.2 Certification from eligible lists

When a certification is to be made, the Department of Civil Service shall certify or after review and approval authorize a certification to the appointing authority of the name and address of the eligible or eligibles highest on the appropriate reemployment or employment list who have indicated interest in that employment.

4:1-12.6 Certification from list for another class

When a certification is required to fill a position in a class for which there is no eligible list, the Department of Civil Service may certify or after review and approval authorize a certification of names of eligibles from a list promulgated by the Department of Civil Service for another class of the same or higher level in the same or related series, upon a determination by the Chief Examiner and Secretary that the use of such list will be in the best interest of the service and that:

(a) The duties and qualifications of the position for which the examination was given are substantially similar to the duties and qualifications for the position to be filled; and

(b) The necessary skills and knowledges were evaluated in the examination.

4:1-12.10 Notifying eligibles of certification

When the name of an eligible is certified to an appointing authority, the Department of Civil Service shall send a notice or cause a notice to be sent to the eligible of such certification. Such notice shall contain regulations concerning the certification and shall be forwarded to the eligible at the address as it appears on his application for the examination or other address as subsequently advised.

4:1-12.12 Notice of removal

Any person whose name is to be removed in accordance with the provisions of Section 12.11(b) through (h) (Removal of names) of this Chapter shall be notified of the removal and given an opportunity to submit facts to the Civil Service Commission in writing within 20 days after receipt of notice of removal for consideration in a review of the determination.

4:1-12.15 Appointment of eligible certified

(a) The appointing authority, after receipt of a certification from the lists of eligibles in order of priority as established in Section 12.3 (Pri-

ority of eligible lists) of this Chapter shall, as the case may be:

1. Appoint the eligible whose name has been certified from the special reemployment list;
2. Appoint the eligible whose name has been certified from the regular reemployment list;
3. Appoint one of the three eligibles from the employment list provided that:
 - i. From an open competitive list, disabled veterans and veterans are appointed in their order;
 - ii. From promotional lists, when the eligible person first in the certification is a veteran, a nonveteran may not be appointed.

(b) In local government services, the appointing authority shall notify the Department of Civil Service of the disposition of the certification within 15 days after receipt of the certification or when the appointing authority is vested in a board or commission, at its next meeting following receipt of the certification.

(c) In State service, the appointing authority shall record the disposition of the certification and notify the Department of Civil Service within 15 days after receipt of the certification. Such record shall be forwarded to the Department of Civil Service.

(d) The appointing authority shall notify all interested eligibles in writing regarding the results of the certification.

4:1-12.17 Certification of additional eligibles

If the appointee cannot begin work within a reasonable time from the date of his acceptance of the position offered, the appointing authority may consider such eligible unavailable and report this to the Department of Civil Service which shall, if necessary, certify or after review and approval authorize a certification of an additional name or names to complete the certification.

4:1-13.1 Working test (probationary) period

All regular appointments to positions in the competitive, noncompetitive and labor divisions of the classified service shall be subject to a working test period except appointments from regular or special reemployment lists or appointments to a comparable or lower class title in lieu of layoff.

4:1-15.2 Lateral title change

The movement of a permanent employee from a position in one class to a position in an equivalent class in the same organization unit at the same or converted rate of compensation for the hours of work shall constitute a lateral title change. Such change may be made if the ranges are the same or have been converted to adjust for the hours of work and if the requirements for both positions are substantially similar requiring essentially the same tests and qualifications and the title change does not mitigate against the principles of the merit system.

4:1-15.6 Return of transferred employee

If the services of the employee who has been transferred voluntarily are not satisfactory or if all parties agree, the employee may be returned to a position in his former class title at any time within 60 days after the transfer is made, and, if all such positions have been discontinued, the demotional and reemployment procedures concerning layoff shall be followed, except that the 45 day notice shall not be required.

4:1-16.4 Notice in layoff or demotion

(a) No permanent employee in the classified service or employee serving a working test period after regular appointment shall be laid off or demoted in lieu of layoff until he shall have been given notice in writing, personally or by certified mail, of the date upon which he will be laid off or demoted and the reasons for the action. Such notice shall be served at least 45 days before the layoff or demotion becomes effective and a copy of such notice must be sent to the Civil Service Department at the same time.

(b) An employee who shall be laid off or demoted in lieu of layoff shall have the right of appeal to the Commission provided such appeal is received by the Commission within 20 days after the date of receipt of notice.

4:1-16.13 Request for reemployment

(a) A permanent employee who has resigned in good standing may within two years of the effective date of his resignation request consideration of reemployment by indicating his availability for employment to the appointing authority from whose agency he had resigned.

(b) Upon recommendation of the appointing authority, the employee shall have his name placed on a regular reemployment list for the class title from which he had resigned. No name shall remain on the regular reemployment list beyond two years from the date of resignation.

(c) Seniority determinations for an employee reemployed from a regular reemployment list shall begin as of the date of reemployment except that, when determining the order of layoff or demotion, ties of equal seniority will be broken by consideration of the period of permanent employment prior to the break in service.

4:1-16.14 Resignation resulting from unauthorized absence

(a) Any employee who is absent from duty for five consecutive business days without notice and approval of his superior of the reason for such absence and the time he expects to return or who fails to report for duty within five business days after the expiration of any authorized leave shall be held to have resigned not in good standing.

(b) The employee shall be properly notified by personal service or certified mail return receipt requested of his involuntary resignation and the precise reasons therefor, and entitlement to a departmental hearing if he so desires in accordance with Section 5.15 (Departmental hearing) of this Chapter. The appointing authority shall report the resignation to the Department of Civil Service.

4:1-17.8 Emergency and special leave (State service)

An employee in State service shall be given time off without loss of pay when:

(a) Performing jury duty;

(b) Summoned to appear as a witness before a court, legislative committee or judicial or quasi-judicial body unless the appearance is as a party to the litigation in a matter unrelated to his capacity as an employee or officer of his agency;

(c) Performing emergency civilian duty in relation to national defense or other emergency when so ordered by the Governor or the President of the United States.

4:1-17.16 Amount of sick leave (State service)

(a) The minimum sick leave with pay shall accrue to any full-time employee on the basis of one working day per month during the remainder of the first calendar year of employment after initial appointment and 15 working days in every calendar year thereafter. Part-time permanent employees shall be entitled to sick leave as established by regulation.

(b) Any amount of sick leave allowance not used in any calendar year shall accumulate to the employee's credit from year to year to be used if and when needed for such purpose.

(c) An employee shall not be reimbursed for accrued sick leave at the time of termination of his employment. Upon termination, the appointing authority shall certify to the Department of Civil Service the employee's accumulated sick leave which shall be made a part of the employee's permanent record.

(d) An employee who has been reemployed shall be credited with the total accrued sick leave at the termination of his previous employment.

(CORRECTION)

4:1-17.17 Reporting of absence on sick leave

If an employee is absent for reasons that entitle him to sick leave, his supervisor shall be notified promptly as of the employee's usual reporting time, except in those work situations where notice must be made prior to the employee's starting time:

(a) Failure to so notify his supervisor may be cause of denial of the use of sick leave for that absence and constitute cause for disciplinary action;

(b) Absence without notice for five consecutive days shall constitute a resignation under Section 16.14 (Resignation resulting from unauthorized absence) of this Chapter.

4:1-20.2 Evaluation

(a) Evaluation shall be made at least once each year for all employees who have worked at least three months during a rating period;

(b) Each employee shall be notified of his performance evaluation and shall have the opportunity to review such evaluation with the supervisor who made the evaluation. Subsequent reviews for a reconsideration of an employee's evaluation may be had as established by appointing authorities in local governments;

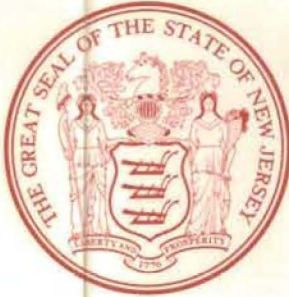
(c) Appeals on adverse (i.e. unsatisfactory) performance evaluations shall be resolved within a State agency through its Grievance Procedure. An employee must make his appeal within ten (10) working days of notification of the unsatisfactory rating. If the rating is a primary or contributing factor in future adverse action (i.e. demotion, separation, etc.), the employee retains all rights to a formal hearing as provided in Subchapter 5, (Hearings) of this Chapter.

4:1-21.2 Discrimination

No person in seeking admission to the classified service shall be discriminated against because of his political or religious opinions or affiliations nor because of his sex, race, ancestry or national origin. Age shall be a valid factor for employment only where it is required for the position by law and where it is lawfully an occupational requirement.

4:1-23.4 Employer responsibility

Each department shall implement the formal procedure for submission of grievances by employees to insure prompt and orderly consideration and determination of such grievances by supervisors and administrators. The head of each State department shall be responsible for carrying out the provisions of the approved grievance procedure.



CIVIL SERVICE PERSONNEL MANUAL State Service

2d ed.

*Historical copy. Superseded pages
retained and so marked. JRE
11/10/77*

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STATE OF NEW JERSEY
DEPARTMENT OF CIVIL SERVICE

JAMES A. ALLOWAY, PRESIDENT
STATE HOUSE, TRENTON, N.J. 08625


Dear Civil Service Personnel Manual Recipients:

On behalf of the Civil Service Commission, I am pleased to announce the reissuance of the Civil Service Personnel Manual (State Service). The material accompanying this letter represents the first complete reprinting of the Civil Service Personnel Manual since the original version of March 2, 1970. We hope the new format will assist you in locating the appropriate subpart more expeditiously.

It is very important that this Manual be kept up-to-date by inserting addendums in their proper place and removing rescinded or outdated material. For your convenience, a Subpart List and Rescission Sheet are included with this issuance. Any subparts issued or rescinded subsequent to February 5, 1973, should be added or deleted accordingly. All subsequent issuances will be printed on pink paper for easy identification. Any prior Manuals should be discarded to assure that all personnel have current information.

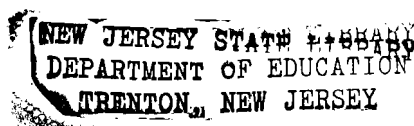
An Unofficial Supplement to the Civil Service Rules containing all rule changes between April 15, 1971, and February 1, 1973, is also included with the Personnel Manual. This Supplement provides a complete updating of the Civil Service Rules (Revised April 15, 1971). At the present time, this is the only printed version of the twenty-five rule changes adopted by the Civil Service Commission effective February 1, 1973. Please keep this Supplement with your Rule-book.

Sincerely yours,


President

March 12, 1973

Attachments



INTRODUCTION
to the
CIVIL SERVICE PERSONNEL MANUAL
(STATE SERVICE)

The purpose of the Civil Service Personnel Manual (State Service) is to further interpret the Civil Service Rules and describe related procedures that are to be used by the Department of Civil Service and the appointing authorities of the State.

The Civil Service Rules are Chapter 1 of Title 4, Department of Civil Service of the New Jersey Administrative Code. Each Rule is a Subchapter divided into Sections. Thus Civil Service Rule 10-1 (formerly cited 4:10-1) shall be identified as Section 1 of Subchapter (Rule) 10, of Title 4, Chapter 1 of the New Jersey Administrative Code. It will be cited as N.J.A.C. 4:1-10.1.

The Civil Service Personnel Manual will be keyed to the numbering system of the New Jersey Administrative Code. Series headings in the Personnel Manual will be the same as Subchapter headings in the N.J.A.C.. Part headings in the Personnel Manual will be the same as Section headings in the N.J.A.C.. Subpart headings in the Personnel Manual are the most specific. A Subpart, therefore, is in effect what replaces the former Civil Service Circular, and will be keyed to the N.J.A.C. by content rather than an exact heading.

For example:

New Jersey Administrative Code,
Title 4, Chapter 1, Department
of Civil Service

Civil Service Personnel Manual

Subchapter 4:1-5 - Hearings

-is keyed to-

Series 5 - Hearings

Section 4:1-5.15 - Depart-
mental Hearing

-is keyed to-

Part 5-15 - Departmental Hearing

Subpart 5-15.101 - Delay of
Departmental Hearing Under
N.J.A.C. 4:1-5.15 Pending the
Outcome of Criminal Charges

Although the format of the Personnel Manual will be as above, only the Subpart need be mentioned for purposes of citation. A typical citation would read:

"Please refer to Subpart 5-15.101 of the Civil Service Personnel Manual (State Service)."

In unusual instances where a Subpart cannot be associated with a Part keyed to an existing Section of the N.J.A.C., and a new Part heading would be necessary, a number higher than the last Section in the Subchapter of the N.J.A.C., will be used for the new Part heading in the Civil Service Personnel Manual.

Table Of Contents

Series 1	--	Authority and Purpose
Series 2	--	Definitions
Series 3	--	Administration
Series 4	--	Commission Meetings
Series 5	--	Hearings
Series 6	--	Position Classification and Reclassification
Series 7	--	Compensation
Series 8	--	Examinations and Applications
Series 9	--	Examination Scoring
Series 10	--	Noncompetitive and Labor Appointments
Series 11	--	Eligible Lists
Series 12	--	Certification and Appointment
Series 13	--	Working Test Period
Series 14	--	Provisional and Temporary Appointment
Series 15	--	Assignments and Transfers
Series 16	--	Separations and Demotions
Series 17	--	Leaves of Absence
Series 18	--	Hours of Work
Series 19	--	Payroll Certification
Series 20	--	Performance Evaluation and Employee Training

Civil Service Personnel Manual
(State Service)

Series 21 -- Enforcement, Prohibitions, Penalties

Series 22 -- Awards Programs

Series 23 -- Employer-Employee Relations (State Service)

Index -- Listing of Subparts by titles

INDEX

Absence, Unauthorized - Resignation	16-14.101
Acts Occurring Within Scope of Employment, Representation For	21-6.101
Administrative Leave	17.8.102
Advancing Appeals for Stipulation	5-10.101
Affirmative Action Program	21-1.101
Age	8-10.101, 6-3.102
Anniversary Dates	7-3.101
Anniversary Dates - Promotion	7-3.103
Anniversary Dates and Salary - Demotion	7-3.105
Anniversary Dates and Salary - Reevaluation	7-3.106
Anniversary Dates and Salary - 10 mo./12 mo.	7-3.108
Appeals - Medical Review Board	12-11.102
Appeals - Stipulation	5-10.101
Application - Eligibility	8-8.104, 8-8.105 8-8.106
Appointments from Open Competitive Lists	7-3.111
Authorized Hiring Rate	7-3 .111
Awards Program	22-1.101
Back Pay	7-3.110
Bona Fide Occupational Qualifications	6-3.103
Certification - Name Appears Twice	12-4.101
Certification - Number of Times	12-8.101

Civil Service Personnel Manual
(State Service)

-2-

CETA II (Comprehensive Employment and Training Act)	20-5.108
CETA VI (Comprehensive Employment and Training Act)	20-5.109
Citizenship	8-10.101
Classification Appeals	6-5.101
Clean Air Scholarship Intern Program	20-5.106
CLEP (College Level Exam Program)	8-6.103
College Level Exam Program	8-6.103
Compensation for Military Leave	17-3.102
Confidential Positions	6-7.102
Conflict of Interest - Dual Office Holding	18-4.101
Consultant	6-6.102
Conviction	8-8.101
Criminal Charges on Acts Occurring Within Scope of Employment	21-6.101
Demotion - Anniversary Date and Salary	7-3.105
Demotional Rights	16-5.101
Departmental Hearing	5-15.101, 5-15.102
Disability Report	5-15.101, 5-15.102
Discrimination	6-3.102, 6-3.103, 8-10.101, 12-7.101
Discriminatory Employment Practices	21-2.101
Discriminatory Questions	8-10.101
Disorderly Persons Charge on Acts Occurring Within Scope of Employment	18-4.101
Dual Office Holding	18-4.101
EEA (Emergency Employment Act)	20-5.104, 20-5.105
Eligible List, Duration of	11-4.101, 11-4.102

Eligible List, Extension of	11-6.101
Eligible List, Removal of Name from	12-11.101
Employee Interchange	20-6.101
Employer-Employee Relations Act	23-1.101
Employment Disability Report	17-9.101
Employment List, Restoration to	13-8.101
Employment Practices, Non-Discriminatory	21-2.101
EPEIS (Employee Performance Evaluation and Improvement System)	20-1.101
EPEIS, Increments	20-1.102, 20-1.104
Exams, Dual Requirements	8-8.105
Exams, Time and Place	8-11.101
Exceptions to Hearing Officer Reports	5-6.101
Extension to Eligible List	11-6.101
Grievance Procedure	23-2.101
Government Employee Interchange	20-6.101
Hatch Act	21-3.101
Hearing Officers	5-6.101
Higher Class - Promotions to	8-6.101
Higher Salary Range Evaluation	7-3.102
Holidays - Part-Time Employees	18-3.101
Hours of Work, Change In	7-3.109

Increments - EPEIS (Employee Performance Evaluation and Improvement System)	20-1.102, 20-1.104
Indictment or Criminal Complaint - Dept. Hearing	5-15.101
Job Content Evaluation Committee	6-6.101
Job Specifications - Review Of	8-8.102
Joint Committee on Overtime	7-4.101
Jury Duty	17-8.103
Layoff Notice	16-4.101
Layoff Prerequisite	16-2.101
Leave, Administrative	17-8.102
Leave, Jury Duty	17-8.103
Leave, Maternity	17-8.101
Leave, Sick	17-16.101,17-16.102
Leave Without Pay - Salary Increment	7-3.104
Legal Counsel	5-8.101
List Made Appropriate	12-6.101
Maternity Leave	17-8.101
Medical Review Board	12-11.102
Maternity Leave, Compensation for	17-3.102
Military Leave - National Guard or Reserves	17-3.101
Military Leave - Working Test Period	12-9.101
Military Reservation	8-8.106

National Guard - Military Leave	17-3.101
Neuter Position Classification	6-3.101
New Titles	6-6.101
Number of Times Eligible is Certified	12-8.101
Non Competitive Labor - Residency	10-5.101
Non Discriminatory Employment Practices	21-2.101
Non Discriminatory Titles	6-3.102
Oath of Allegiance	12-15.101
Overlap Shifts	7-4.102
Overtime	7-4.101
Part-Time Employees - Holidays	18-3.101
Part-Time Employees - Sick Leave	17-16.102
Pay Adjustments	7-3.102
PERC (Public Employee Relations Commission)	23-1.101
Place and Time of Exam	8-11.101
Political Activities	21-3.102
Promotion - Anniversary Dates	7-3.103
Promotion - Duration of List	11-4.101
Promotion - Higher Class	8-6.101
Promotion - Qualification	8-6.102
Public Information - Examination of Records	20-8.102

Civil Service Personnel Manual
(State Service)

-6-

Reallocation of Title	6-7.101
Records of Conviction	8-8.101
Reduction of Age for Vets	2-1.101
Reemployment After Retirement	16-13.101
Reemployment Rights	16-5.101
Reevaluation - Salary and Anniversary Date	7-3.106
Removal of Name from Eligible List	12-11.101
Representation by Legal Counsel	5-8.101
Representation for Acts Occurring within Scope of Employment	21-6.101
Reserves - Military Leave	17-3.101
Residency	8-8.103
Residency - Non Competitive and Labor	10-5.101
Resignation - Result of Unauthorized Absence	16-14.101
Restoration to Employment List	13-8.101
Retirement Planning	16-16.101
Retirement, Reemployment After	16-13.101
Review of Job Specifications	8-8.102
Salary Adjustment Committee	7-3.111
Salary and Anniversary Date - Demotion	7-3.105
Salary and Anniversary Date - Reevaluation	7-3.106
Salary and Anniversary Date - 10 mo./12 mo.	7-3.108
Salary Increase	7-3.102
Salary Increment - Leave Without Pay	7-3.104
Salary Reevaluation	7-2.101

Selective Certification	12-7.101
Separation or Transfer, Report of	16-15.101
Sex Discrimination	6-3.102, 6-3.103, 8-10.101, 12-7.101
Sick Leave	17-16.101, 17-16.102
Staff Development and Training	20-5.101, 20-5.102
Stipulation	5-10.101
Suggestion - Awards Program	22-1.101
Suspension Notice	16-7.101
Ten Month/Twelve Month Positions	7-3.108
Tie Scores	9-6.101
Time Limit for Departmental Hearing	5-15.102
Time and Place of Examination	8-11.101
Trainee Titles	20-5.103
Training and Staff Development	20-5.101, 20-5.102
Transfer	15-1.101
Transfer or Separation	16-15.101
Unauthorized Absence - Resignation	16-14.101
Unemployment	16-1.101
Veterans, Reduction of Age	2-1.101
Veterans Status, Verification of	10-3.101
WIN/PSE (Work Incentive/Public Service Employment)	20-5.107
Working Test Period - Military Leave	12-9.101

CIVIL SERVICE PERSONNEL MANUAL

(STATE SERVICE)

As of March 22, 1974, the following is an up-to-date list of subparts that should be contained in your Civil Service Personnel Manual (State Service).

<u>SUBPART</u>	<u>ISSUE DATE</u>
Introduction	2/5/73
Rescissions	2/5/73
2-1.101	8/9/71
5-6.101 (2 pages)	8/11/71
5-10.101	10/2/72
5-15.101 (2 pages)	2/5/73
5-15.102	5/18/73
6-3.101	7/27/73
6-5.101 (3 pages)	1/19/73
6-6.101	8/25/71
6-6.102	4/9/73
6-7.101	4/9/73
6-7.102	3/1/74
7-3.101 (2 pages)	6/18/73
7-3.102 (3 pages)	6/18/73
7-3.103	6/18/73
7-3.104 (2 pages)	4/9/73
7-3.105 (2 pages)	3/1/74
7-3.106 (3 pages)	5/18/73
7-3.107	4/9/73
7-3.108 (3 pages)	5/18/73
7-3.109 (pages 1-4)	5/18/73
7-3.109 (pages 5&6)	1/25/74
7-3.110 (2 pages)	5/18/73
7-4.101 (pages 1-4)	2/22/71
7-4.101 (pages 5-6)	3/24/74
7-4.101 (pages 7-9)	2/22/71
7-4.102	2/22/71

-2-

<u>SUBPART</u>	<u>ISSUE DATE</u>
8-6.101	8/25/71
8-6.102 (2 pages)	8/25/71
8-6.103 (2 pages)	3/12/73
8-8.101	2/5/73
8-8.102	4/21/72
8-8.103	1/27/71
8-8.104	10/20/71
8-8.105	10/2/72
8-8.106	10/2/72
8-10.101 (1st page)	3/2/70
8-10.101 (2nd page)	4/21/72
8-11.101	8/25/71
9-6.101 (2 pages)	8/25/71
10-3.101	12/14/71
10-5.101	8/25/71
11-4.101	7/27/73
11-4.102	11/24/71
11-6.101	1/29/73
12-4.101	3/8/71
12-6.101	8/25/71
12-11.101 (3 pages)	6/18/73
12-11.102 (2 pages)	1/25/74
12-15.101	12/15/72
15-1.101 (2 pages)	7/19/71
16-2.101	10/6/70
16-4.101	8/25/71
16-5.101 (3 pages)	8/25/71
16-7.101	8/25/71
16-13.101	12/18/73
16-14.101	3/30/72
16-15.101 (1st page)	3/30/72
16-15.101 (2nd page)	3/2/70
16-15.102 (2 pages)	4/9/73
16-16.101	3/10/72
17-3.101 (2 pages)	9/28/73
17-3.102 (3 pages)	9/28/73
17-8.101 (1st page)	8/25/71
17-8.101 (2nd page)	3/2/70
17-8.102 (2 pages)	7/24/72
17-8.103	12/18/73

-3-

<u>SUBPART</u>	<u>ISSUE DATE</u>
17-9.101 (2 pages)	11/25/70
17-16.101	6/1/70
17-16.102	12/23/70
18-3.101	3/22/74
18-4.101	10/2/72
20-1.101 (pages 1&2)	5/20/71
20-1.101 (page 3)	6/2/71
20-1.101 (pages 4&5)	8/10/71
20-1.101 Supplements (2 charts)	5/20/71
20-1.102 (3 pages)	9/28/71
20-1.103 (2 pages)	6/18/73
20-5.101 (3 pages)	3/2/70
20-5.102	3/2/70
20-5.103 (3 pages)	12/28/71
Appendix A (Supplementing 20-5.103) (page 1)	2/16/72
Appendix A (Pages 2-8)	12/28/71
Appendix A (Correction Sheet #1)	2/16/72
Appendix A (Correction Sheet #2)	9/8/72
Appendix A (Correction Sheet #3)	2/5/73
Appendix A (Correction Sheet #4)	12/18/73
20-5.104 (2 pages)	12/8/72
20-5.105	12/8/72
20-5.106	10/2/72
*20-5.107	3/1/74
20-6.101 (2 pages)	3/2/70
20-7.101 (2 pages)	4/9/73
22-1.101 (14 pages)	3/24/71
23-1.101	3/2/70
23-2.101 (5 pages)	4/9/73
23-2.102 (3 pages)	4/9/73

*NOTE: Subpart 20-5.107 - WIN/PSE Program was incorrectly issued with designation of 20-5.106.

CIVIL SERVICE PERSONNEL MANUAL

(STATE SERVICE)

Please be advised that the following subparts have been rescinded:

<u>Subpart</u>	<u>Issue Date</u>	<u>Recission Date</u>
Cross Reference	3/2/70	4/21/72
3-8.101	8/25/71	2/5/73
6-5.101	3/2/70	7/15/71
6-5.102	3/2/70	7/15/71
8-4.101	3/29/71	7/15/71
8-6.103	3/2/70	7/15/71
11-1.101 (1st page)	1/21/71	4/21/72
11-1.101 (2nd page)	3/12/71	4/21/72
11-7.101	10/2/72	2/5/73
20-1.103 (2 pages)	6/18/73	7/1/74
20-3.101 (5 pages)	8/4/71	4/21/72

CIVIL SERVICE PERSONNEL MANUAL

(STATE SERVICE)

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6-5.101	3/2/70	7/15/71
6-5.102	3/2/70	7/15/71
8-4.101	3/29/71	7/15/71
8-6.103	3/2/70	7/15/71
11-1.101 (1st page)	1/21/71	4/21/72
11-1.101 (2nd page)	3/12/71	4/21/72
11-7.101	10/2/72	2/5/73
20-1.103 (2 pages)	6/18/73	7/1/74
20-3.101 (5 pages)	8/4/71	4/21/72
Appendix A(Correction Sheet #1)	2/16/72	8/19/74
Appendix A(Correction Sheet #2)	9/8/72	8/19/74
Appendix A(Correction Sheet #3)	2/5/73	8/19/74
Appendix A(Correction Sheet #4)	12/18/73	8/19/74

Series 1

Authority and Purpose

Series 2

Definitions

PART 2-1 WORDS AND PHRASES DEFINED

Subpart 2-1.101 Reduction of Age by Amount of Service During Period of
Actual Hostilities as Defined in N.J.S.A. 11:27-1

2-1.101a Subject:

This subpart defines the procedures for determining an applicant's "reduced age" under the provisions of N.J.S.A. 38:23A-2.

2-1.101b Procedure:

Applicants who are ineligible under the present maximum age limitations and who have served in the military during the periods of actual hostilities as listed in N.J.A.C. 4:1-2.1 (See "Veteran") and N.J.S.A. 11:27-1, will receive the following reductions in determining their age for Civil Service purposes:

(a) only the initial period of service (including involuntary extensions) completed during the time periods stipulated in N.J.A.C. 4:1-2.1 (See "Veteran") and N.J.S.A. 11:27-1 can be subtracted from the applicant's present age, and

(b) comparison between this reduced age and the age requirement for the position at the time of entrance into military service will be made.

Examples:

A 45 year old person, applying at the present time for the positions of firefighter or police officer, is ineligible since the present maximum age is 35 years. However, this applicant served either involuntarily or as a result of induction, on active duty in the U. S. Army from July 27, 1952 to July 27, 1954. The applicant subsequently re-enlisted for a five (5) year period and was discharged on July 26, 1959. Under N.J.A.C. 4:1-2.1 only one of the seven (7) years of service was during a period of actual hostilities. Therefore, there will be a deduction from the applicant's present age of 45. This reduced age, or 44, is compared with the maximum age 30, as of July 27, 1952, when the applicant entered military service. The applicant is also ineligible under the reduced age formula.

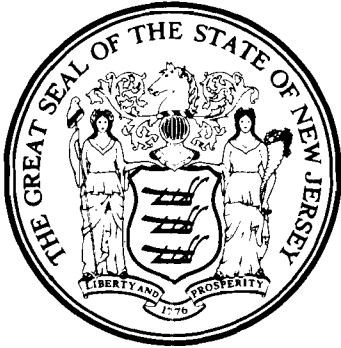
2-1.101b

(cont'd)

A 36 year old person, applying at the present time (1975) for the position of police or firefighter, is ineligible since the present maximum age is 35 years. However, this applicant served either involuntarily or as a result of induction, on active duty with the U. S. Army from December 1, 1971 to December 1, 1973. The applicant subsequently re-enlisted for a two-year period and was discharged on December 1, 1975. Under N.J.A.C. 4:1-2.1 the years of service during a period of actual hostilities was from December 1, 1971 to August 1, 1975, a total of 2 years, 9 months. Of this 2 3/4 year period 2 years were served either involuntarily or as a result of induction. Therefore, there will be a deduction of 2 years from the applicant's present age of 36. This reduced age, or 34, is compared with the maximum age which was in effect as of December 1, 1971, when the applicant entered military service; that maximum age was also 35. Therefore, the applicant is eligible under the reduced age formula.

NOTE:

- (1) An applicant is considered to be over 35 years of age on the day of his/her 35th birthday.
- (2) State laws concerning age limitations for prospective police officers and firefighters are based on the announced closing date.
- (3) The maximum age for police officer and firefighter is 30 prior to September 4, 1968.



CIVIL SERVICE APPEALS MANUAL

This product was made possible by a grant from the US Office of Personnel Management (OPM) under the Intergovernmental Personnel Act of 1970 and that OPM is not responsible for the accuracy of the material or the conclusions it contains.

NEW JERSEY DEPARTMENT OF CIVIL SERVICE

DIVISION of ADMINISTRATIVE PRACTICES and LABOR RELATIONS

PUBLIC HEARINGS

BACKGROUND

"In the administrative agencies of State government, due process demands that an avenue of appeal be provided to all persons wishing to contest government action which may be adverse to individual interests." (Director, Division of Administrative Practices and Labor Relations, Department of Civil Service)

The Civil Service Appeals Manual describes the process involved in assuring all parties due process from the time an appeal is initiated to the final determination. The present sophisticated process utilizing research analysts, classification reviewers, salary reviewers, review boards and administrative law judges has evolved from the early limited appeal hearings conducted by the Civil Service Commission from appeals contesting disciplinary actions. (N.J.S.A. 11:15-1, 11:22-38) In 1969 the Revised Civil Service Administrative Code (N.J.A.C.) and the Administrative Procedure Act were promulgated and the Unit of Hearing and Regulations became a Division of the Department of Civil Service. A renewed interest in individual rights and a surge of labor relations activity resulted in an increased number of appeals. The cases became unwieldy for the Commission to hear on a case by case basis; a backlog started building. By 1971 hearing officers were appointed to conduct hearings on some of the appeals previously heard by the Commission, therefore easing the case load. The hearing officers reported to the Commission which made a final determination on each case. (N.J.S.A. 4:1-5.11)

In 1971, a statutory amendment provided for persons to "submit facts for consideration" if the Chief Examiner and Secretary refused to "examine an applicant" or "certify an eligible." (N.J.S.A. 11:5-1e, 11:9-6) About the same time the Civil Service Personnel Manual (CSPM) was amended to delineate N.J.S.A. 11:5-16 and include a provision for appealing salary and classification determinations. Appeals that didn't fit into specific categories were processed under the umbrella of Administrative appeals. Active negotiations with bargaining units resulted in the consideration of grievances (N.J.S.A. 11:5-1f) as well as increasing and examining the importance of evidence and cross examination.

The number and scope of appeals were burgeoning. From 1969 to 1979 the number of appeals had multiplied more than ten times over. As in any agency dealing with large work loads and constant crisis situations, procedures were developed in response to need and were passed on verbally or through training sessions. Departments were urged to try to settle complaints from adverse governmental actions within the agency. The President of the Civil Service Commission assigned reviewers to conduct informal hearings on salary and classification appeals. A growing number of analysts and technicians reviewed appeals that were not entitled to hearings. Medical Boards were established to hear appeals from negative medical and psychiatric determinations. In 1978, the State created the Office of Administrative Law, which, in 1980, took over the hearing officer function of hearing all contested cases on questions of material fact. (N.J.S.A 52:14F) Administrative Law Judges also reported their findings and recommendations to the Civil Service Commission for final determinations. Appeals that were decided solely on the written record and/or through informal hearing were processed by the Division of Hearing and Regulations, now called the Division of Administrative Practices and Labor Relations. Reports and recommendations from these reviews were, and are, submitted to the Civil Service Commission for final determination.

The growing number and various types of appeals review precipitated a need for a procedural manual. The manual was to offer guidelines for procedural consistency and to establish standards for all reports and recommendations. In 1979 the Division of Administrative Practices and Labor Relations proposed and received an Intergovernmental Personnel Act (IPA) grant to write a training manual for use by training officers, reviewers, analysts, personnel officers, employees and their representatives. This Civil Service Appeals Manual (CSAM) published in 1980 is the product of that grant.

ACKNOWLEDGEMENTS

The Director and Assistant Director of the Division of Administrative Practices and Labor Relations, in addition to implementing their concept of an Appeals Manual, were always available to answer questions, give direction, supervision and support to the project. The research analysts and administrative staff shared their information, clarified vague areas, and reviewed the text. The Word Processing Center Staff worked patiently and diligently to store all the original text in the word processing equipment and produce copy for printing.

All the people involved in this project are confident that the Civil Service Appeals Manual will be a valuable aide in easing you through the appeal processes. The Manual provides comprehensive procedural guidelines to all parties to an appeal and, as a consequence, advances positive employee-employer relationships. All comments that may add to its effectiveness are encouraged and welcomed.

Barbara Fields, Senior Research Analyst
IPA Hearing Officers Training Manual
Department of Civil Service
Division of Administrative Practices
and Labor Relations
1980

TABLE OF CONTENTS

PUBLIC HEARINGS: SERIES 5

Introduction

Use of the Civil Service Appeals Manual
Explanation of State and Local Governments

5:1-5:4 Narrative
 Subparts: CSPM
 Contents of Appendix
5[1-18] Appendix

Statutes: N.J.S.A.- Title 11
Rules: N.J.A.C.- Title 4
Glossary

INTRODUCTION

The Civil Service Appeals Manual describes, in plain language, the system through which the seventeen different types of appeals flow from initiation to final determination. Appeal types that utilize similar procedures are combined into single sections:

- Examinations
- Medical Review Board-Physical
- Medical Review Board-Psychological

- Administrative
- SAC
- Suggestion Awards
- Lump Sum Sick Leave
- Discrimination

- Public Hearings

- SLI

- Disciplinary, Major
- Non-

- Disciplinary Appeals Entitled to a Hearing:
 - Retirement Under Duress
 - Resignation Under Duress
 - Release at the End of a Work Test Period

- Disciplinary, Minor
- Grievances

- Layoff-Issue A
- Layoff-Issue B

These two types of appeals do not have similar appeal processes. Layoff-Issue A is an appeal that is entitled to a hearing and Layoff-Issue B is processed by written review. They are grouped because they often overlap. Combining them into one section allows for easy review.

The following pages will explain State and local government relative to the Manual as well as how to use the Manual.

The purpose of the Civil Service Appeals Manual is to facilitate filing, researching, writing and tracking of an appeal, appeal memo, report and recommendation and/or decision letter. The Appeals Manual defines the appeal process including its integral time restrictions and required information. The technicalities of the procedure are specific, defined and documented.

The Civil Service Appeals Manual identification number corresponds to Civil Service Rules (N.J.A.C.) and Civil Service Personnel Manual (CSPM) title and numerical system.

The numerical system of the Civil Service Personnel Manual (CSPM) and the Civil Service Rules (N.J.A.C.) are identical. However, there are two easily understood labeling differences. CSPM uses the nomenclature "series" and "parts" to identify units whereas the N.J.A.C. identifies the same units as "subchapters" and "sections" respectively; e.g. CSPM "series 12" is the same as N.J.A.C. "subchapter 12"; CSPM "part 11" is the same as N.J.A.C. "section 11." The New Jersey statute citations (N.J.S.A.) have no numerical relationship to the N.J.A.C. or CSPM systems. The appeals manual is numbered by appeal type, or series, narrative page number or appendix page numbers. The appeal number in the narrative is followed by a colon and the page number. Thus, 8:1 is examination appeal, page 1. When the narrative refers to a page in the appendix, the subject sentence will be followed by the appeal number and appendix page number in brackets, e.g. 8[1] is examinations appeal, appendix page 1.

Example

Appeal Type: Examinations

<u>Appeals Manual:</u>	"Examinations," Series 8
<u>CSPM:</u>	"Examinations and Applications," Series 8
<u>N.J.A.C.:</u>	"Examinations", subchapter 8

<u>N.J.A.C. 4:1</u>	corresponds to	<u>CSPM</u>
subchapter <u>8</u> is 4:1- <u>8</u>	is keyed to	series <u>8</u> is <u>8</u>
section <u>11</u> is 4:1-8. <u>11</u>	is keyed to	part <u>11</u> is 8- <u>11</u>
		subpart 101 is 8-11. <u>101</u>

The 4:1 preceding the N.J.A.C. subchapter number designates title and chapter numbers for all Civil Service Rules, Title 4, Chapter 1.

The Appeals Manual will cite N.J.S.A., its corresponding Civil Service Rules (N.J.A.C.) and CSPM subparts wherever possible. The statutes, rules and subparts that are used most often are included in each Civil Service Appeals Manual series; however, all possible references are not included. The user should refer to the N.J.S.A., Title 11; N.J.A.C., Title 4; and the Local and State CSPM.

Explanation of State and Local Governments

The New Jersey Civil Service Act, its resultant laws (N.J.S.A., Title 11), rules (N.J.A.C., Title 4, Chapter 1), and subparts (CSPM) apply to all classified State titles and to the employees occupying positions in these titles (N.J.S.A. 11:1-11:19), as well as to the classified employees in counties, municipalities, school districts, etc. that elect to operate under the Civil Service Laws. (N.J.S.A. 11:19 et seq.) Title 11 refers to a limited extent to employees and positions in the unclassified service.

Title 11 is divided into two sections, one for State service and one for local governments, as is the CSPM. Most of the CSPM subparts apply to both governments; however, in certain instances such as salary determinations, the State has no jurisdiction over local government actions. Therefore, the Appeals Manual will indicate whether a type of appeal is bifurcated or the appeal processes are so similar in both forms of government that they may be covered in a single section with occurrant differences noted as needed.

State Service

The New Jersey governmental structure is divided into departments, e.g. Transportation, Labor and Industry, Civil Service, etc.. Each department is further divided into divisions. Thus, the Department of Civil Service is comprised of the Division of Classification and Compensation, Division of Examinations, Division of Administrative Practices and Labor Relations, etc.. Each division may be subdivided into bureaus, units or sections, e.g. Research and Development is a unit of the Division of Administrative Practices and Labor Relations. The terminology "appointing authority" refers to the department, division, bureau, section or unit which has been delegated the power to appoint an employee to its service, or to remove an employee from its service under specific conditions. Appeals may be initiated by a department, division, employee organization, or individual.

The processing of an appeal will vary according to the type of appeal. Therefore, each type is being treated individually; its process traced from initiation through final administrative determination.

Local Government Services - N.J.S.A. 11:19-2

Local Government Services is the Division within the Department of Civil Service which oversees appointing authorities in local government jurisdictions that have elected to operate under the New Jersey Civil Service statutes applicable to municipalities, counties, school districts, or other public corporations. (N.J.S.A. 11:19 et seq.) The Division of Local Government Services maintains three offices, referred to as local offices, or branch offices; one in Newark, one in Trenton and one in Camden.

Newark Local Office
Department of Civil Service
1100 Raymond Boulevard
Newark, New Jersey 07102

Camden Local Office
Department of Civil Service
517 Market Street
Camden, New Jersey 08102

Trenton Local Office
Department of Civil Service
126 East Hanover Street
Trenton, New Jersey 08625

Each local office has its own office manager, professional and administrative staff. The Director of the Division of Local Government Services, located in Trenton, directs the operations of the three branch offices.

As in State Civil Service, appointing authorities, employee organizations, or individuals have the right to appeal adverse governmental actions. Appeals which originate within a local government and pertain to Civil Service Laws, rules, or regulations may be appealed through the appropriate Local Government Services office. The Division of Local Government Services is responsible for recording all appeals that are directed to or through Local Government Services, for reviewing specific appeals, for making determinations, for referring appeals for further review to the Department of Civil Service or Civil Service Commission, Division of Administrative Practices and Labor Relations and for filling requests from the Division of Administrative Practices and Labor Relations for information concerning local government appeals.

PUBLIC HEARINGS

PUBLIC HEARINGS

Authority: N.J.S.A. 11:7-13, 11:22-50, 11:22-52; N.J.A.C. 4:1-5.14

Hearings because of significant impact

The Commission may "when circumstances warrant...make investigations and hold hearings..." If the Commission determines that a proposed action may have a significant impact on a department(s) and/or employees of the State or local government operating under State Civil Service laws, the Commission may schedule a public hearing in order to hear parties who wish to make presentations before the Commission.

Examples

1. Provisionals

The Commission conducted public hearings in Trenton, Camden, and Newark to elicit information and recommendations on the following issues: (1) What is the best method for resolving the general problem of the excessive numbers of provisional appointments which are made pending examination and the specific problem of persons who have been working as provisional appointees for extended periods of time; (2) What length of time is too long for provisional appointments; (3) Is decentralization of testing to agencies or local political subdivisions with monitoring by State Civil Service a good way to prevent excessive provisional appointments; (4) Should there be legislation to confer permanent status on persons who have been working provisionally for too long; (5) Should this legislation confer permanent status based on: length of time served as provisional appointee only, passing an individual qualifying examination, or both; (6) Should Civil Service re-evaluate testing techniques or formats for titles routinely requiring a large number of provisional appointments (such as semi-skilled); (7) Should these tests be competitive or non-competitive; (8) Should any solution be limited to positions that are filled by open-competitive examination, to those positions that are filled by promotional examination, or both.

2. Civil Service Reform Act

During fiscal year 1978-1979, the Commission conducted six public hearings: four in Trenton, one in Camden, and one in Newark - on whether the statutory revisions proposed by the Merit System Review Project should be accepted, modified or rejected. Special meetings were held by the Commission and a final draft on the Reform Act was approved by the Commission on July 25, 1978, and forwarded to the Office of the Governor.

3. Sick Leave Injury

The Commission held a public hearing to determine the standards to be applied by State Agencies in determining whether an employee who has sustained injury should be compensated by sick leave injury benefits, and if so, the extent of those benefits.

Hearings for purpose of reallocation of title from classified service to unclassified service.

The Civil Service Commission, pursuant to N.J.S.A. 11:7-13 and 11:22-50, may determine whether particular positions assigned to the classified service shall be reallocated to the unclassified service. The Civil Service Commission must determine whether or not it is practicable to determine merit and fitness for the subject position on the basis of competitive or non-competitive examination, or a review of the minimum qualifications for the exam. The Civil Service Commission, pursuant to N.J.S.A. 11:22-52, in determining whether such position should be in the unclassified service, must hold a public hearing.

Examples

1. Director, Office of Research and Evaluation,
State Department of Health

A public hearing was held by the Commission to determine whether the title Director, Office of Research and Evaluation, State Department of Health, should be reallocated from the classified to the unclassified service.

Following consideration of all testimony submitted, the Commission determined that the position of Director, Office of Research and Evaluation, New Jersey Department of Health, should be reallocated to the unclassified service pursuant to N.J.S.A. 11:4-4(q) which specifically exempts directors who must also be licensed physicians from the classified service.

2. Deputy Directors, Division of Medical Assistance
and Health Services and Division of Welfare, State
Department of Human Services

A public hearing was held by the Commission to solicit testimony and/or memoranda to determine whether the titles of Deputy Director, Division of Medical Assistance and Health Services and Deputy Director, Division of Welfare, State Department of Human Services should be reallocated from the classified to the unclassified service.

On October 17, 1978, the Commission concluded that the duties performed by the deputy Director, Division of Medical Assistance and Health Services, and Deputy Director, Division of Welfare involved the development of policy as primary functions and should be open to outside recruitment. Therefore, it was determined that it would not be practicable to test for merit and fitness for appointment for the subject positions, and ordered that both titles be reallocated for the classified to the unclassified service.

Hearings Procedure: N.J.A.C. 4:1-5.7, 4:1-5.14

Division of Administrative Practices and Labor Relations

Upon request from the appointing authority for a hearing 5[1], an Administrative Practices and Labor Relations analyst reviews the file for a detailed basis with documentation and/or written argument substantiating the merits of the request.5[2] Subsequent to research and appointing authority documentation 5[3-7], the analyst assesses the request and writes a memorandum for Commission consideration. The memorandum states the appointing authority's request and position, the factual and/or statutory basis for the request and a recommended action.5[8]

If the request for a hearing is denied, a decision letter based on the memorandum is sent to all parties. This is a final administrative determination.

If the Civil Service Commission grants a hearing, the time, date and place is scheduled by the Division of Administrative Practices and Labor Relations administrative staff.5[9] An advertisement is placed in three or more newspapers of general circulation.5[10] Notice of the hearing is posted in the main office of the Commission 5[11], in the three branch offices of the Division of Local Government Services 5[12], and with appointing authority personnel officers. A letter is sent to all involved parties stating that notification of intention to testify is not required, however, the Commission would appreciate notice about the parties' intentions to submit written statements, to make comments, or to appear at the hearing.5[13]

Hearing

Public hearings are opened with a statement by the President or his delegate.

"On behalf of the New Jersey Civil Service Commission may I welcome all of you to the public hearing on...

The Civil Service Commission directed that this hearing be held on... and is being conducted under the authorization of N.J.S.A. 11:5-1.

The purpose of this hearing is to solicit testimony regarding....

The procedure at this hearing will be to allow witnesses who wish to address the Commission to have a reasonable amount of time to make a presentation. If necessary, the Commission will limit a presentation in the interest of reasonable expedition. Presentations may be submitted without the necessity of being read.

Anyone wishing to speak is asked to file his name with (staff person) if s/he has not done so. Each statement will be recorded and become part of the official record of this hearing. Any written statements filed with the Commission will also become a part of the record.

Members of the Commission will question witnesses if they find it necessary. Other persons wishing to comment on a witness' remarks will be given an opportunity to make such comments after the completion of all initial statements. The Commission will also give consideration to any written comments or statements relevant to the proposed revisions received [within two (2) weeks after the close of the hearing].

Announcement of the Public Hearing were submitted as public notices to and appeared in the following newspapers:

The Trentonian
The Trenton Times
Newark Star Ledger
Courier Post

Public Notice of the Public Hearing was posted in the Department of Civil Service, and the Division of Local Government Services' branch offices located in Newark, Camden, and Trenton..."

Two weeks after the close of the public hearing a transcript is prepared and submitted to the Division of Administrative Practices and Labor Relations. The analyst drafts a report synopsising all written and oral statements and makes a recommendation based on the statements. The report and recommendation is referred to the Commission for its consideration. The Commission makes a determination and issues an order constituting final action on the matter.5[14-18]

APPENDIX

- 5[1] Letter Requesting a Hearing
- 5[2] Letter from the Division of Administrative Practices and Labor Relations Requesting Substantiating Materials
- 5[3-5] Letter with Substantiation
- 5[6-7] Job Description
- 5[8] Memorandum to President, Civil Service Commission from the Division of Administrative Practices and Labor Relations Synopsizing Information
- 5[9] Memorandum Directing that a Public Hearing Be Held; Time, Date and Place
- 5[10] Newspapers Publishing Notice
- 5[11] Public Notice
- 5[12] Public Notice to Appointing Authorities
- 5[13] Public Notice to All Parties
- 5[14] Decision Cover Letter
- 5[15-18] Decision Letter and Order by the Civil Service Commission



OFFICE OF THE MAYOR

CITY OF TRENTON, NEW JERSEY 08604
SEP 11 11 09

ARTHUR J. HOLLAND
MAYOR

OFFICE OF THE PRESIDENT
DEPARTMENT OF CIVIL SERVICE

September 13, 1979

Mr. Joseph Lavery, Director
Division of Administrative Practices
and Labor Relations
Department of Civil Service
215 East State Street
P.O. Box 1918
Trenton, New Jersey 08625

Dear Mr. Lavery:

The City of Trenton would appreciate the opportunity to present its case for placing the Municipal Museum Director position into the unclassified service at a public hearing. Mr. S. Howard Woodson, Jr. was kind enough to suggest this course of action in his letter to Mr. Phil McHugh of August 13, in which he referred us to you. A copy of that letter is enclosed for your review.

Please contact me to arrange a date for such a hearing, at your earliest opportunity. Your cooperation will be appreciated.

In the interim, I will notify Senator Merlino that the City of Trenton would like to have Senate bill 3384, our legislative effort to accomplish this objective, held indefinitely.

Sincerely yours,

Robert M. Boyles, III
Assistant Administrative Analyst

RMB/jg

cc: S. Howard Woodson, Jr. ✓
Joseph DiGiacomo, Acting Business Administrator
George Dougherty, City Attorney
Eleanor Matthesius, Trenton Museum Commission
Philip McHugh, Senior Personnel Analyst



State of New Jersey

DEPARTMENT OF CIVIL SERVICE

S. HOWARD WOODSON, JR.
PRESIDENT
JOSEPH M. RYAN
ACTING
CHIEF EXAMINER & SECRETARY

EAST STATE & MONTGOMERY STREETS
P O BOX 1918
TRENTON, N.J. 08625

September

Mr. III
Assistant Administrative Analyst
Office of the Mayor
City of Trenton
Trenton, New Jersey 08608

Dear Mr. Boyles:

Thank you for your letter of _____ in which you asked me to contact you for a date for hearing under 11:22-52. As you know that provision of the statute provides for public hearing where there is a question of practicability to test, and consequent need for allocations to the unclassified service of an existing unclassified position.

As you can understand, it is necessary for the Commission to have a detailed basis with documentation and/or written arguments substantiating the merits of such request before the Commission can access the need for public hearing. This detailed basis was requested of you in Commissioner Woodson's letter of _____

I would appreciate before moving further on the matter a documentation of the grounds on which you propose to rest your argument for allocation to the unclassified service.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Joseph Lavery".

Joseph Lavery
Director of Administrative Practices
and Labor Relations

cc: S. Howard Woodson, Jr.
Joseph M. Ryan



CITY OF TRENTON, NEW JERSEY

ARTHUR J. HOLLAND, MAYOR

DEPARTMENT OF ADMINISTRATION

BRIAN T. BAXTER
BUSINESS ADMINISTRATOR

October 31, 1979

Mr. Joseph Lavery
Director of Administrative
Practices and Labor Relations
Department of Civil Service
215 East State Street
P. O. Box 1918
Trenton, New Jersey 08625

Dear Mr. Lavery:

In a letter to Mr. Robert M. Boyles, III dated September 21, 1979 you asked for a documentation of the grounds on which the City of Trenton proposes to rest our argument for allocation of the title of Municipal Museum Director (or Curator) to the unclassified service. The basis upon which the City petitions for a Public Hearing is as follows:

1. The director or curator serves in a capacity which demands such subjectively measurable qualities as personal poise, taste, enthusiasm and leadership. The dynamic nature of the museum, especially in its early stage of development, requires flexibility and discretion in the selection of a director in order that a person may be chosen who possesses the aforementioned qualities. It is imperative, also, that the museum management be able to discontinue the services of a director whose attitudes or other subjective characteristics are deemed inappropriate.
2. "Public recognition of the museum as a cultural and educational community agency is derived from the day-to-day activities of the institution. These, in turn, reflect the abilities of the salaried executive officer who devotes full time to the affairs of the Museum." (So you Want a Good Museum, Carl E. Guthe, American Association of Museums.) The Director or Curator should, therefore, be a person sensitive to the needs, feelings and background of the entire community. The Trenton City Museum Commission has already had the unhappy experience of having employed a Director who would undoubtedly have been able to pass a Civil Service examination for the position but who was unable to deal personally with the

Commission, the Trenton Museum Society and many groups in the community and who had little intimate knowledge of Trenton.

3. "The Commission is empowered to collect, assemble, restore, maintain and exhibit memorabilia of the City of Trenton. Memorabilia is interpreted as meaning fine and decorative arts, objects, pictures, Trenton-manufactured products, clothing, and many artifacts associated with the social, political, economic, cultural, sport and other areas of the City's growth and that of its citizens." (From the City Ordinance creating the Museum Commission.) In order that the Museum may accomplish its mission, the person who would best direct the program is one who meets the broad academic requirements for museum work, but who by personal motivation has become familiar with Trentoniana through collecting, private study and/or by having been close to the Trenton scene for an extended period of time. That person should also be able to function closely and sensitively as a member of the community insofar as the families of the community are the potential donors to the museum collection.
4. We submit that the personal qualifications discussed in the preceding paragraphs can be acquired only through years of immersion in the local milieu and cannot possibly be measured by conventional examinations. Scores from written tests cannot reflect the all-important nuances of motivation, knowledge of the locality, and personality as these factors relate to this particular museum.
5. We point to our recent experience with the appointment of the Museum Curator for the Trent House as substantiation of our contention that selection from a Civil Service list generated through examination does not result in a curator or director with the degree of long-term relationship and commitment to the City that successful museum development obviously requires. The Trent House Curator, who was not originally a Trentonian, has resigned after a relatively short tenure in office in order to relocate in another state.
6. There are only three municipal museums in the United States and the Trenton City Museum is the only municipal museum in New Jersey. We submit that its unique quality buttresses our position regarding declassification of the position of Director or Curator.

In summary, it appears evident to us and consistent with accepted museum practices that an examination is not a satisfactory method of screening the type of person needed for this sensitive position, namely one who:

Mr. Joseph Lavery

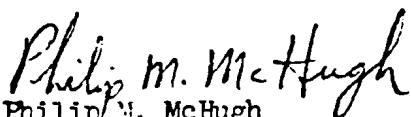
-3-

October 31, 1979

- a. Is dedicated to the City and the Museum.
- b. Possesses the personal characteristics necessary for successful performance.
- c. Is sensitive to the cultural and social composition of the City.
- d. Can work effectively and cooperatively with City officials, the Museum Commission and community groups.

We request that the Department of Civil Service convene a public hearing on the question at the earliest possible date.

Sincerely,


Philip M. McHugh
Principal Personnel Technician

PMM:cl

cc: Mayor Holland
Mr. Di Giacomo
Mrs. Matthiesen
Mr. Ogren
Mr. Dougherty
Mr. Whitmire

MUSEUM DIRECTOR

DEFINITION

Subject to the policies and rules of the Board of Trustees, organizes, develops, directs and has charge of the museum program; does related work as required.

EXAMPLES OF WORK

Administers the various activities of the museum through a staff and other assistants.

Organizes administrative and technical museum work, and develops appropriate work methods designed to accomplish the overall function of the museum.

Carries on research.

Writes articles, bulletins and other materials in the furtherance of the programs of the museum.

May teach classes in the museum as required.

Prepares the annual budget request of the museum and is responsible for the proper expenditure and accounting of museum budgeted funds.

Prepares budget estimates and analyses as required.

Attends and participates in local and other meetings and conferences and represents therein.

REQUIREMENTS

Education

Graduation from a four year course at an accredited college or university with a major course of study in any of the natural, physical or social sciences.

Note - Applicants who do not meet the educational requirement may substitute additional work experience as described below on a year for year basis.

Experience

Five years of full time paid top level professional administrative experience in the direction of a museum which shall have included programs consisting of Natural Science, Fine Art, Archeology and/or Anthropology.

Knowledge

Thorough knowledge of and familiarity with the functions, organization, purposes and operations of a museum.

MUSEUM DIRECTOR - (Continued)

Thorough knowledge of and familiarity with the problems which arise in determining and executing appropriate work programs and developing suitable work methods.

Considerable knowledge of and familiarity with the principles, literature and techniques of anthropology and ethnology.

Considerable knowledge of and familiarity with the cataloguing and presentation of archeological and ethnological collections.

Ability

Ability to read, write, speak and understand English sufficiently to perform the duties of this position.

Ability to develop and carry out an appropriate program for a museum.

Ability to organize technical work, develop suitable work programs, procedures and schedules, and provide assignment, instruction and supervision for professional and other employees.

Ability to identify specimens and provide advice and assistance to inquirers.

Ability to direct the design, preparation, installation and maintenance of appropriate displays and exhibits.

Ability to work harmoniously with associates, subordinates and the general public.

Ability to make the most effective use of available personnel, funds, space, equipment, materials and supplies.

Ability to prepare clear, sound, accurate and informative technical, statistical, budget and other reports containing findings, conclusions and recommendations.

Ability to direct the establishment and maintenance of the essential records and files.

Good health and freedom from disabling physical and mental defects which would impair the proper performance of the required duties or which might endanger the health and safety of oneself or others.

MHS
7-18-77

MT/ST
M-7-3,4



State of New Jersey

DEPARTMENT OF CIVIL SERVICE

S. HOWARD WOODSON, JR.
PRESIDENT

JOSEPH M. RYAN
ACTING
CHIEF EXAMINER & SECRETARY

EAST STATE & MONTGOMERY STREETS
P. O. BOX 1918
TRENTON, N.J. 08625
January 2, 1980

M E M O R A N D U M

TO: S. Howard Woodson, Jr., President
Civil Service Commission

FROM: Joseph Lavery, Director ✓
Division of Administrative Practices and Labor Relations

SUBJECT: Request for Public Hearing: Municipal Museum Director,
Trenton

The City of Trenton has requested a Public Hearing to consider the reallocation of the title Municipal Museum Director, Trenton, from the classified to the unclassified service. In support of its request, the City has stated that the position in question requires "...subjectively measurable qualities as personal poise, taste, enthusiasm and leadership..." and a "person sensitive to the needs, feelings and background of the entire community" who is "familiar with Trentoniana". The City contends that these qualifications cannot be measured via conventional examinations. In addition, it is stated that the Trenton City Museum is the only municipal museum in New Jersey, and one of 3 municipal museums in the United States. The fact that the Trent House Curator appointed from a Civil Service list, not originally a Trentonian, resigned after a short term in office in order to relocate in another state, is used to support the contention that a Civil Service examination "does not result in a curator or director with the degree of long-term relationship and commitment to the City that successful museum development obviously requires".

The Division of Local Government Services has advised that the Museum Curator position exists in three Civil Service jurisdictions within the State. In Cape May County at the Cape May County Museum, the Museum Curator was permanently appointed from a promotional list on December 3, 1977. In Paterson at the Paterson Museum, the current incumbent has had permanent status in the position since July 24, 1975. The third Museum Curator position, at the Mercer County Trent House Commission, was also filled from an open competitive list. Although the incumbent resigned effective December 14, 1979, that resignation by itself does not support the City's contention that a Civil Service examination will not test properly.

The information submitted by the City does not appear to demonstrate a need for reallocation to the unclassified service. We suggest however that the request of the city be brought before the Commission to determine whether they would prefer to explore the matter further at a public hearing pursuant to N.J.S.A. 11:22-52.



State of New Jersey

DEPARTMENT OF CIVIL SERVICE

S. HOWARD WOODSON, JR.
PRESIDENT

EAST STATE & MONTGOMERY STREETS
P.O. BOX 1918
TRENTON, N.J. 08625

JOSEPH M. RYAN
ACTING
CHIEF EXAMINER & SECRETARY

February 4, 1980

MEMORANDUM

TO: S. Howard Woodson, Jr., President, Civil Service Commission

FROM: Joseph Lavery, Director, Administrative Practices and Labor Relations

SUBJECT: Public Hearing - Municipal Museum Director, Trenton

The Civil Service Commission at its meeting of January 23, 1980, directed a Public Hearing be held to consider the reallocation of the title Municipal Museum Director, Trenton, from the classified to the unclassified service.

The Commission has scheduled the Public Hearing for Associate Hospital Administrator and Assistant Hospital Administrator, State Department of Human Services, for 1 p.m., March 4, 1980, following the regularly scheduled meeting of the Commission. It is recommended that the Public Hearing for Municipal Museum Director also be scheduled for that date at 2 p.m.

*Planning to be sit
3-4-80 - 2 p.m.
DSE 2/5/80
MR*

MEMORANDUM . . . NEW JERSEY DEPARTMENT OF CIVIL SERVICE

TO: Joseph M. Ryan

DATE: February 19, 1980

FROM: Joseph Lavery

SUBJECT: PUBLIC HEARING - Municipal Museum Director, Trenton

The attached Public Notice went to all of the Commissioners and will be advertised in the following newspapers:

Trentonian
The Trenton Times
Newark Star Ledger
Courier Post

This notice was also sent to all local offices to be posted.

Attachment



State of New Jersey

DEPARTMENT OF CIVIL SERVICE

S. HOWARD WOODSON, JR.
PRESIDENT

JOSEPH M. RYAN
ACTING
CHIEF EXAMINER & SECRETARY

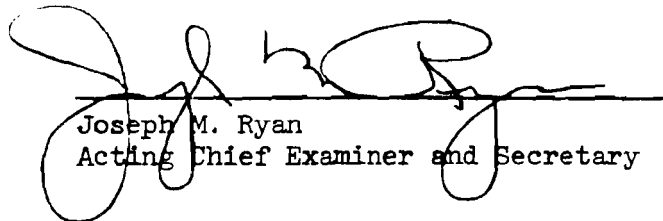
EAST STATE & MONTGOMERY STREETS
PO BOX 1918
TRENTON, N.J. 08625

February 15, 1980

PUBLIC NOTICE

Please take notice that on March 4, 1980, at 2 p.m., in the Offices of the Civil Service Commission, 215 East State Street, Trenton, New Jersey, Room 150, the Civil Service Commission will hold a hearing open to the public for the purpose of gathering information and recommendations from interested parties, as well as the public-at-large, on the following topic:

THE CIVIL SERVICE COMMISSION WILL SOLICIT TESTIMONY AND/OR MEMORANDA, PURSUANT TO N.J.S.A. 11:7-13, TO CONSIDER THE REALLOCATION OF THE TITLE MUNICIPAL MUSEUM DIRECTOR, TRENTON, FROM THE CLASSIFIED SERVICE TO THE UNCLASSIFIED SERVICE.



Joseph M. Ryan
Acting Chief Examiner and Secretary

MEMORANDUM . . . NEW JERSEY DEPARTMENT OF CIVIL SERVICE

TO: Walton Streit, John Collins, Donald Bennett, and Robert Hartman
FROM: Joseph M. Ryan
SUBJECT: PUBLIC HEARING - Municipal Museum Director, Trenton

FILE
COPY

Attached is copy of Public Notice of Public Hearing to be held on Tuesday, March 4, 1980.

Please post the Public Notice in a prominent place in your reception area from date of receipt through March 12, 1980.

After March 12, 1980, the above public Notice is to be returned to this office with a notation thereon that it has been posted for the requested period.

Enclosure

cc: Mr. Morris C. Ianni

5[12]



State of New Jersey

DEPARTMENT OF CIVIL SERVICE

S. HOWARD WOODSON, JR.
PRESIDENT

EAST STATE & MONTGOMERY STREETS
P O BOX 1918
TRENTON, N.J. 08625

JOSEPH M. RYAN
ACTING
CHIEF EXAMINER & SECRETARY

February 15, 1980

M E M O R A N D U M

TO: ALL INTERESTED PARTIES

FROM: Joseph M. Ryan, ~~Acting~~ Chief Examiner and Secretary

SUBJECT: PUBLIC HEARING - Municipal Museum Director, Trenton

We are enclosing a copy of the NOTICE OF PUBLIC HEARING to be held on March 4, 1980, at 2 p.m., in the Offices of the Civil Service Commission, 215 East State Street, Trenton, New Jersey, Room 150.

The Civil Service Commission is scheduling this hearing to consider the reallocation of the title Municipal Museum Director, Trenton, from the classified service to the unclassified service.

Kindly be advised we are not making direct contact with any members of your organization and ask that you disseminate this information to your members who may be interested in this Public Hearing.

If it is at all possible, the Commission would appreciate receipt of notice from you concerning your intentions, either to submit a written statement in person or by mail, to present statements, or make comments, or to appear, or not to appear at the hearing, no later than March 3, 1980.

Enclosure



State of New Jersey

DEPARTMENT OF CIVIL SERVICE

S. HOWARD WOODSON, JR.
PRESIDENT

JOSEPH M. RYAN
ACTING
CHIEF EXAMINER & SECRETARY

EAST STATE & MONTGOMERY STREETS
P O BOX 1918
TRENTON, N.J. 08625

June 6, 1980

In reply refer to:
A-13 MS/MR
Telephone Area Code 609
292-8482

The Honorable Arthur J. Holland
Mayor, City of Trenton
Trenton, New Jersey 08608

Dear Mayor Holland:

Re: **Public Hearing - Reallocation of the Title of Municipal Museum
Director, Trenton, from the Classified Service to the Unclassified
Service**

I am enclosing a certified copy of the decision of the Civil Service
Commission rendered on May 6, 1980, on the above appeal, which is self-
explanatory.

Sincerely,

Joseph M. Ryan
Acting Chief Examiner and Secretary

Enclosure

cc: Joseph DiGiacomo, Acting Business Administrator
George Dougherty, City Attorney
Eleanor Matthesius, Trenton Museum Commission

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

S. HOWARD WOODSON
President

JOHN T. HOLDEN
MATHIAS E. RODRIGUEZ
CHARLES M. WALTHER, JR.
ROSE TEAGUE

Commissioners

JOSEPH M. RYAN
Acting Chief Examiner and Secretary

Reallocation of the
Title of Municipal
Museum Director,
Trenton, from the Classified Service to
the Unclassified
Service

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Public Hearing

ISSUED: June 6, 1980

ORDER OF THE CIVIL SERVICE COMMISSION

SUBJECT: Reallocation of the Title of Municipal Museum
Director, Trenton, From The Classified Service
To The Unclassified Service.

On March 4, 1980, the Civil Service Commission held a public hearing to solicit testimony on whether or not the title of Municipal Museum Director, Trenton, should be reallocated from the classified service to the unclassified service.

The record reflects that Public Notices for this Public Hearing were sent to the Department of Civil Service local offices and the general Public Hearing mailing lists. Announcement of the Public Hearing appeared in the following newspapers:

- The Trentonian
- The Trenton Times
- Newark Star Ledger
- Courier Post

Notice of this Public Hearing was also posted in the Department of Civil Service in the Arnold Constable Building beginning February 15, 1980, and remained so posted until March 12, 1980.

Four people were in attendance at the hearing, three of whom testified. Three written statements on this matter were also received.

Michael L. Bitterman, Esq., appeared on behalf of the City of Trenton. He stated this City's position to be that the title of Municipal Museum Director, Trenton, represents a unique position in that:

1. The Museum Director is the only member of the staff, and therefore his title is in a sense a misnomer, since he must perform numerous duties, including Public Relations, which would normally be done by others on a staff;
2. The Museum is concerned primarily with "Trentonia," and, as such, the person named as Director should be from the community and should exhibit qualities such as poise, taste, enthusiasm, and leadership ability, none of which can be measured by test;
3. The Civil Service job specifications do not adequately reflect the nature of the Trenton Municipal Museum Director position, since such director being required to set policy himself rather than merely to recommend policy, must be an extension of the Trenton Mayor and Trenton City Museum Commission.

Mr. Bitterman also stated that the local unit of AFSCME supported the City's position, and a letter to that effect from Albert P. Vrancik, Secretary, Local 2281, AFSCME, was sent to the Acting Chief Examiner and Secretary. He further emphasized that in his opinion, "Museum Director" and "Museum Curator" were essentially different positions and could not be equated, since the director position at the Trenton Museum is a "one-person show."

Mrs. Eleanor Matthiesen, past President of the Trenton City Museum Commission supported the position of Mr. Bitterman. She emphasized that the City needs a person in the position who knows Trenton, its people and its history. She further testified that the City has never had a person in the position permanently and that the position has previously been funded with CETA funds.

Phillip McHugh, Personnel Director, City of Trenton, generally agreed with the testimony of Mr. Bitterman and Mrs. Matthiesen. He emphasized the point that the position could not be tested for, either by written or oral examination. He also emphasized his belief that the party appointed should have a grounding in the community and should have philosophical compatibility with the Mayor and Museum Commission - again, a quality which cannot be tested for. Much of Mr. McHugh's testimony supported a letter which he had previously submitted to the Commission on this matter.

In response to questions, Mr. McHugh stated that to his knowledge, other similar positions still do exist in the State of New Jersey, but these other positions are classified differently, according to the source of funding. He also stated that the Trenton City Museum Commission, which is appointed by the Mayor, would be the appointing authority for the Municipal Museum Director.

A letter dated November 1, 1979, from the Mayor of the City of Trenton, supported the arguments made at the Public Hearing by the City.

In response to a request from the Commission for information on this issue, the Division of Local Government Services advised that the Museum Curator position exist in three Civil Service jurisdictions within the State. In Cape May County Museum, the Museum Curator was permanently appointed from a promotional list on December 3, 1977. In Paterson at the Paterson Museum, the current incumbent has had permanent status in the position since July 24, 1975. The third Museum Curator position, at the Mercer County Trent House Commission, was also filled from an open competitive list. The incumbent resigned effective December 14, 1979.

With regard to this latter title, the City has contended the following:

"We point to our recent experience with the appointment of the Museum Curator for the Trent House as substantiation of our contention that selection from a Civil Service list generated through examination does not result in a curator or director with the degree of long-term relationship and commitment to the City that special museum development obviously requires. The Trent House Curator, who was not originally a Trentonian, has resigned after relatively short tenure in office in order to relocate in another state."

O R D E R

The evidence as presented in both writing and at the Public Hearing supports allocation of the position of Municipal Museum Director, Trenton, to the unclassified service.

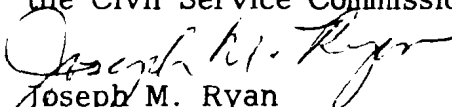
The information submitted by Local Government Services indicates that other municipalities have established the similar position of Museum Curator which is in the classified service. Successful testing has been done for that position. However, evidence indicates that the positions of Curator and Director are different.

The City's argument that its experience with the position of Museum Curator, Trent House, shows a need for someone who was originally a Trentonian supports the City's contention that a Civil Service examination will not test properly.

It is therefore ordered that the position of Municipal Museum Director, Trenton, be allocated to the unclassified service.

DECISION RENDERED BY THE CIVIL
SERVICE COMMISSION ON MAY 6, 1980

I hereby certify that the above is
a true copy of the original which
appears in the official record of
the Civil Service Commission.


Joseph M. Ryan
Acting Chief Examiner and Secretary
Department of Civil Service

Inquiries Joseph Lavery, Director
and Division of Administrative Practices
Correspondence and Labor Relations
215 East State Street
Trenton, New Jersey 08625

STATE SERVICE

STATUTE

CHAPTER 7

CLASSIFICATION OF POSITIONS

- 11:7-11. Determination of whether positions shall be in classified or unclassified service

The Civil Service Commission may determine, from time to time, whether positions in the State service, not assigned to the unclassified service of the civil service by law, shall be in the classified or the unclassified service of the civil service for purposes of appointment or promotion thereto and in so doing, the Civil Service Commission shall determine whether or not it is practicable to determine merit and fitness for employment or promotion in each such position on the basis of--

First, competitive examination, or

Second, examination which is not competitive, or

Third, minimum qualification requirements therefore.

In any case in which it is so found to be practicable to determine merit and fitness for employment or promotion to any such position in any such manner, the same shall be classified in the classified service of the State service, and merit and fitness for appointment or promotion thereto shall be ascertained in accordance with said determination of the Civil Service Commission.

- 11:7-12. Classification in unclassified service

In any case in which it is so found not to be practicable to determine merit and fitness for appointment or promotion to any such position in any such manner, the same shall be classified in the unclassified service of the State service.

11:7-13. Reexamination of classification of positions in classified service; hearing

In any case in which any position, now in existence or hereafter created, has been or shall be classified in the classified service of the State service and the Civil Service Commission shall desire to re-examine the classification thereof, the Civil Service Commission shall, before determining that any such position shall be in the unclassified service of the State service, hold a public hearing to determine whether or not it is practicable to determine merit and fitness for appointment or promotion to such position by means of competitive or other examination or on the basis of minimum qualification requirements thereof and if it shall be determined that it is not practicable so to do, it shall record and publish its findings in which it shall state the basis upon which such determination is made and, thereafter, such position shall be in the unclassified service of the State service.

COUNTIES, MUNICIPALITIES, ETC.

STATUTE

CHAPTER 22

CLASSES OF CIVIL SERVICE

11:22-52. Reexamination of Classification of Position
In Classified Service; Hearing

In any case in which any position, now in existence or hereafter created, has been or shall be classified in the classified service of the service of any such political subdivision of the State and the Civil Service Commission shall desire to re-examine the classification thereof, the Civil Service Commission shall, before determining that any such position shall be in the unclassified service of the service of and such political subdivision of the State, hold a public hearing to determine whether or not it is practicable to determine merit and fitness for appointment or promotion to such position by means of competitive or other examination or on the basis of minimum qualification requirements thereof and if it shall be determined that it is not practicable so to do, it shall record and publish its findings in which it shall state the basis upon which such determination is made and, thereafter, such position shall be in the unclassified service of the service of such political subdivision of the State.

CIVIL SERVICE RULES

SUBCHAPTER 5.

HEARINGS

4:1-5.6 Execution of relief

* * *

(b)When the relief to be accorded to the petitioner provides that a hearing be held by the Commission, it shall:

2.Determine whether the hearing is to be in the nature of a public hearing requiring the issuance of public notices or a private hearing which may be restricted or open to the public but requiring notices only to the petitioner and other affected parties;

4:1-5.7 Notice of hearing

(a)The Commission shall issue an order or directive fixing the date, time and place at which the hearing will be held, and shall:

1.Give at least five business days notice to the petitioner and other parties thereto by serving copies of such order or directive upon them personally or by regular mail, or give such other notice as may be agreed upon and requested by all the parties;

2.Effect public notice thereof in accordance with the provisions on public hearing and public notice in Section 2.1 of this Chapter when required.

(b)Notice of a hearing may be combined with the notice granting the petition, provided service is made as provided in subsection (a)of this Section.

4:1-5.14 Public hearing

The Commission shall determine the procedural aspects of any public hearing that is of a non-adjudicative, fact-finding nature.

CIVIL SERVICE RULES

SUBCHAPTER 6. POSITION CLASSIFICATION AND RECLASSIFICATION

4:1-6.7 Allocation and reallocation of class titles

* * *

(a) Before a class title in the classified service is reallocated to the unclassified service by the Commission, it shall hold a public hearing to ascertain whether or not it is practicable to determine merit and fitness for appointment or promotion in the class on the basis of:

1. First, competitive examinations; or
2. Second, examination which is not competitive; or
3. Third, minimum qualification requirements.

(b) The Commission shall record and publish its findings and determination whereby:

1. If it determines that merit and fitness for appointment or promotion to a position in the class can be ascertained in any manner indicated in subsection (a) of this Section, the class title shall be allocated or reallocated to the classified service; or

2. If it determines that merit and fitness for appointment or promotion to a position in the class cannot be ascertained in any such manner, the class title shall be allocated or reallocated to the unclassified service.

(c) Effect of reallocation of class titles:

2. The reallocation of a class title from the classified service to the unclassified service shall be accomplished only after adherence to the above procedure and the incumbent with permanent status in that class shall be entitled to all rights which are consistent with the classified service.

GLOSSARY

DEPARTMENT OF CIVIL SERVICE
DIVISION OF ADMINISTRATIVE PRACTICES
AND LABOR RELATIONS
1980

CSAM
CIVIL SERVICE APPEALS MANUAL



administrative law judge:

a hearing officer appointed by the Office of Administrative Law; conducts hearings and submits reports and recommendation to the Civil Service Commission.

appeal:

a written complaint by an employee, prospective employee, union representative or appointing authority alleging, that an action by a State department, Department of Civil Service or local governmental body is in violation of the Civil Service statutes, rules or regulations.

appeal memo:

a memorandum written by an analyst stating the issues, arguments submitted by all parties, findings of fact, conclusions and recommendation for consideration by the Civil Service Commission or the Chief Examiner and Secretary.

appeal process:

the procedure prescribed by law, rules, regulation or policy through which an appeal must advance for final determination: includes time restrictions, informational requirements, and levels from which determinations are made. Each level must be exhausted before advancing to the next level: the process may have one or more levels (tiers, steps).

appointing authority:

a commission, board, person or group of persons having the power authorized by law, or by reason of a law fully delegated authority, to appoint or remove an employee.

appointment:

the offer and acceptance of a position on either a permanent or temporary basis; most often used in connection with hiring for a classified position from an eligibility list.

Board of Medical Examiners (Medical Review Board-Physical):

a Board of physicians appointed by the Civil Service Commission to review upon request by the Civil Service Commission, rejections, removals, or SLI benefit decisions conditioned on results of physical examination.

burden of proof:

the responsibility of proving a fact or facts in dispute on an issue raised between the parties in a cause.

certification:

a ranked listing of eligibles, derived from various types of employment lists. The certification list is used by State and local government officials to fill classified government jobs.

Chief Examiner and Secretary:

the administrative head of the Department of Civil Service; appointed by the President of the Civil Service from a list promulgated by the Division of Examinations for this position in the competitive division of the State classified service.

Civil Service Commission:

created by legislative act to oversee and administer the employment, tenure and discharge of State and local government employees operating under the Civil Service act; comprised of a President and four Commissioners appointed by the Governor.

Civil Service Rule; New Jersey Administrative Code:

N.J.A.C. specifically Title 4 – Department of Civil Service; Title 4, Chapter 1; i.e. 4:1 et seq.

class:

a group of positions sufficiently alike in respect to its duties and responsibilities to justify common treatment in selection, compensation and other employment processes; a class may consist of one position if no others of the same kind exist in the service being classified: Example: Because of its unique character the class of Director, Division of Examinations in State service is a class of one position; the class title Clerk, however, may have over a thousand positions.

C - E

classification:

a system of identifying and describing the different kinds of work in an organization; the grouping of similar positions under common job titles.

classification plan:

a schedule of class titles arranged according to series of classes and occupational groupings or other appropriate order. New Jersey State government has a classification plan containing over 4,100 class titles. Each of the over 290 county and local governmental units under New Jersey Civil Service has its own classification plan.

classified service:

all offices and positions which are in the service of the State, municipality, county, school district or other agency operating under the provisions of Title 11, Civil Service, New Jersey Statutes Annotated (N.J.S.A.). Excepted positions are those for which it is impracticable to examine or those excluded by statute, N.J.S.A. 11:4-4, 11:22-2.

class title:

a descriptive, brief, and consistent label for a group of positions or a class.

CSPM:

Civil Service Personnel Manual; the parts and subparts corresponding to the series and sub-chapters in the Civil Service Rules and interpreting and delineating the Civil Service Statutes and Rules.

decision letter:

the letter of final determination comprised of a narrative, findings, conclusions and determination sent to all parties.

desk audit:

a job study made by a classification technician at the site of employment. The technician interviews the employee occupying the position and discusses the duties and responsibilities of the position being studied.

Division of Administrative Practices and Labor Relations:

the Division within the Department of Civil Service performing five major functions: regulatory, labor relations, Civil Service Commission support, appellate and hearings. The appeal manual pertains to the review and hearing function of reviewing appeals, preparing the appeal for the Civil Service Commission or Office of Administrative Law hearing, or for review of the written record.

Division of Classification and Compensation:

the Division within the Department of Civil Service responsible for the development and maintenance of the State's Classification and Compensation plans, research and planning with respect to salary and fringe benefits programs, and the processing, recording, and validation of State personnel transactions, in compliance with Civil Service law, rules, policies and procedures.

Division of Examinations:

the Division within the Department of Civil Service responsible for the development and administering of Civil Service examinations, for scoring, ranking, establishing and maintaining employment and reemployment lists, for certification and appointment of eligibles.

Division of Local Government Services:

the Division which oversees the operations of the county, municipal, school districts or other autonomous political subdivisions operating under the provisions of the Civil Service Law. The Division of Local Government Services has three branch offices; one in Camden, one in Newark, one in Trenton; the main office is located in Trenton.

eligible:

a person who has met all of the qualifications for appointment or reemployment, from open competitive employment lists, promotional employment lists, regular and special reemployment lists.



eligibility list (employment):

a ranked list of persons who are eligible for appointment or reemployment, and includes open competitive employment lists, promotional employment lists, regular and special reemployment lists.

exceptions:

the documents or briefs submitted to supplement or answer to the statements in the report and recommendation.

good faith:

layoff appeals, Issue A, that allege the appointing authority laid off an employee for reasons other than efficiency, economy or any other valid reason requiring a reduction of the number of employees in a given class.

Hay Point System:

a system of assigning a point value to job characteristics such as know-how, problem solving and accountability, providing an objective method of ranking titles in terms of salary within the classification plan.

hearing:

an opportunity for the appellant and respondent to answer to charges through personnel appearance; a hearing may be presided over by the President of the Civil Service Commission, a Commissioner, an Administrative Law Judge, a specially appointed Board, or any other person so appointed by the Civil Service Commission; a hearing may be trial-type, an informal review, or any variation thereof.

hearing officer:

a person appointed per diem to hold hearings and submit a report and recommendation to the Civil Service Commission or Chief Examiner and Secretary.

informal hearing (review):

an opportunity for all parties to present their arguments and documentation; normally conducted informally in a discussion format, questions and answers, as opposed to the more formal testimony and cross-examination; culminates in a report and recommendation by the reviewer; all parties are permitted to file exceptions and cross-exceptions to the report and recommendation prior to final decision.

in-time appeals:

those appeals which fall within the time limit allotted by statute, rule or subpart; the allotted time from when the appellant receives notice of the adverse action to the date stamped on the appeal when it is received by the Department of Civil Service.

Issue A:

appeals from layoffs charging bad faith, i.e., that the layoff action was not for reasons of efficiency, economy or any other valid reason, requiring a reduction in the number of employees in a given class.

Issue B:

appeals from layoffs charging improper application of lateral displacement, seniority, demotional and/or special reemployment rights.

jurisdiction:

the right, power or authority to administer laws, rules or regulation

any county, municipality, school district or other autonomous political subdivision.

layoff:

the separation of a permanent employee from his/her position for reasons other than delinquency or misconduct on his/her part.

local government:

the offices and positions in the Civil Service of any county, municipality, school district or other autonomous political subdivision operating under the provisions of the Civil Service law.



lump sum:

supplemental compensation for earned and unused accumulated sick leave granted to each employee in the classified service of the State upon retirement and to each state employee in the unclassified service who has been granted sick leave under terms and conditions similar to classified employees;

supplemental compensation for performing duties in addition to those specified for a title.

Medical Review Board-Physical (Board of Medical Examiners):

a Board of physicians appointed by the Civil Service Commission to review, upon request by the Civil Service Commission, rejections, removals, or SLI benefit decisions conditioned on the results from a physical examination.

Medical Review Board-Psychological (MRB):

an arm of the Civil Service Commission appointed to review and hear appeals from an eligible whose name is being removed from an eligibility list on the grounds that the eligible is mentally unfit to effectively perform the duties of the job; comprised of a psychiatrist, a psychologist and a Civil Service representative from the Division of Administrative Practices and Labor Relations.

mitigate:

to make less severe due to the consideration of extenuating circumstance.

N.J.A.C.

New Jersey Administrative Code; specifically Title 4 - Department of Civil Service; Civil Service Rules; Title 4, Chapter 1, i.e. 4:1 et seq.

Office of Administrative Law:

a central independent agency in the executive branch of State government with the function of conducting administrative hearings pursuant to N.J.S.A. 52:14F-1.

out-of-time appeals:

those appeals that do not fall within the time limit allotted by statute, rule or subpart; the allotted time from when the appellant receives notice of the adverse action to the date stamped on the appeal when received at the Department of Civil Service.

permanent employee (RA):

a employee who has acquired permanent status in his/her position after the satisfactory completion of a working test period.

position:

a group of duties and responsibilities that require the full or part-time employment of one individual.

probationary period:

see definition of working test period.

probationer:

an employee serving his/her working test period.

provisional appointment (PA):

the appointment of an individual to a position pending a Civil Service examination and/or appointment of an eligible person from a special reemployment, regular reemployment or employment list.

public hearing:

an opportunity given, after public notice of at least five business days, for an interested party to appear and be heard on the matter involved; may be convened by order of the Civil Service Commission if the issue would have a significant impact on the State and local governments and/or its employees; or, to determine if a title should be reallocated from the classified service to the unclassified service.



public notice:

publication by positing an announcement in a prominent place in or near the offices of the Commission and accessible the public during business hours or by advertising in any newspaper of general circulation in the State. distributed to newspapers with wide State circulation; posted in the local branch offices of the Division of Local Government Services.

reallocation:

the change of a class from one division to another within the classified service or to the unclassified service; or from the unclassified service to a division of the classified service.

reclassification:

the change of an individual position from one class to another class.

reduction-in-force (RIF):

term used synonymously with layoff procedures enforced because of reasons of efficiency and economy.

report and recommendation:

a document submitted by a reviewer to his/her superior, Department, Division of Administrative Practices and Labor Relations, Chief Examiner and Secretary or Civil Service Commission for consideration and determination; contains discussion, findings, conclusions and recommendation.

review of written record:

review and determination of an appeal by consideration of written documents submitted by all parties; there is no provision during this review for oral argument or personal presentation.

salary range:

based on the requirements of the position; the State Civil Service classification plan has forty-five (45) salary ranges each having eight (8) rates of pay, or steps, including a specified allowable minimum and maximum wage.

series:

classes of positions reflecting the degree of responsibility and difficulty of positions in the same category of work; example of a typical series is Clerk, Senior Clerk, Principal Clerk, Head Clerk.

Sick Leave Injury benefits (SLI):

compensation in the form of paid or part-paid leave of absence because of work related illness or injury; these benefits are never cash reimbursements for accident or illness related expenses.

special reemployment list:

a list of names of persons who had been permanent employees but were laid off for reasons of efficiency, economy or otherwise and not because of any misconduct or delinquency on their part; or whose office or position has been abolished and who are entitled to be certified for re-employment. These lists take precedence over promotion lists for the same organization unit, regular reemployment lists and open competitive employment lists.

specification (job specifications):

description of a class; composed of a class title, an overall statement of the kind and level of work, examples of typical tasks and general duties, and a statement of qualification standards.

symbol number:

the letter-number combination assigned to each examination for purpose of identification; must be included in all examination appeals; appears in job opportunities bulletin in heading for each test, on the test and answer sheet, and in all matters that refer to a specific test.

temporary appointment (TA):

employment during a period of emergency or in a temporary position.

timeliness:

the time allowed by law or rule within which an appeal must be submitted to the Civil Service Commission or Chief Examiner and Secretary; time allotted for submitting appeals, information, briefs, exceptions and/or cross exceptions.

T-W

title:

label assigned to classes of positions; title should be concise, descriptive of the type of work, and indicate relative class level or rank.

unclassified service:

offices and positions not subject to all provisions of the Civil Service Law or Commission rules; lists of all unclassified titles are maintained for the State and local governments and include all offices and positions; the Commission may determine positions to be unclassified pursuant to N.J.S.A. 11:7-11 to 11:7-13 and 11:22-52; the lists include the citation authorizing the unclassified status of the office or position.

working test period or probationary period:

a part of the testing process which consists of a trial working period after regular appointment, during which time the work performance and conduct of the appointee is evaluated to determine if s/he shall merit permanent status.

Series 3

Administration

Series 4

Commission Meetings

Series 5

Hearings

PART 2-1 WORDS AND PHRASES DEFINED

Subpart 2-1.101 Reduction of Age by Amount of Service During
Period of Actual Hostilities as Defined in N.J.S.A. 11:27-1

2-1.101a Subject:

This subpart describes the procedure for determining on applicant's "reduced age" under the provisions of N.J.S.A. 38:23A-2.

2-1.101b Procedure:

Applicants qualifying as veterans of the Vietnam Conflict or other conflicts listed in N.J.A.C. 4:1-2.1; "Veteran" and N.J.S.A. 11:27-1 will receive the following reductions in determining their age for Civil Service purposes:

- a. only the initial period of service (unless involuntarily extended) during time of actual hostilities as stipulated in N.J.A.C. 4:1-2.1; "Veteran" and N.J.S.A. 11:27-1 will be subtracted from present age, and
- b. comparison between this reduced age and the age requirement for the position at the time of entrance into military service will be made.

Example:

If a 35 year old man applies for a position having a maximum age limitation of 30 years (as of March 31, 1961) and he has served on active duty during the Vietnam Conflict from March 31, 1961 to March 31, 1963 (90 days of which was overseas duty), we would deduct two years from his present age of 35. As his "reduced age" would be 33 as compared to the age maximum of 30, he would not be eligible for the position.

Note:

- (1). When an applicant has reached his 35th birthday, he is considered over 35 years old.
- (2). State laws concerning age limitations for prospective patrolmen and firemen are based on the announced closing date.

2-1.101c Limitations:

Overseas duty, for the purposes of this procedure, shall mean any tour of duty beyond the contiguous 48 states. Tours spent in peripheral locations such as Alaska, Hawaii, Puerto Rico qualify as overseas duty. Also included in the definition is any combination of 90 days spent beyond this boundary (1) on permanent or temporary ground duty, (2) on permanent or temporary shipboard duty, and (3) permanent or temporary flight duty.

PART 5-6 EXECUTION OF RELIEF

Subpart 5-6.101 Hearings Conducted by Hearing Officers Assigned by the
President of the Civil Service Commission

5-6.101a Subject:

This subpart will govern the assignment of Hearing Officers by the President of the Civil Service Commission to conduct hearings on appeals from disciplinary or other administrative actions and will detail the procedures to be followed.

5-6.101b Assignment:

The President of the Civil Service Commission will from time to time review appeals outstanding before the Civil Service Commission to determine whether a sufficient backlog exists to assign hearing officers in accordance with N.J.A.C. 4:1-5.6.

If the President thereafter so decides he will distribute cases according to the following priorities:

1. Removals
2. Layoffs
3. Suspensions for more than 5 days
4. Demotions
5. Administrative Appeals

5-6.101c Conduct of Hearings:

Hearings before hearing officers designated by the President will adhere to the procedures outlined in N.J.A.C. 4:1-5.1 et seq. generally.

5-6.101d Submission of the Hearing Officer's Report and Recommendation:

Ten (10) copies of the report and recommendations of hearing officers must be prepared and submitted to the Civil Service Commission in the written form described in N.J.A.C. 4:1-5.11(b) within 10 days from the date of hearing or within 10 days of return of the transcript of the hearing.

Copies of the Hearing Officer's Report and Recommendations will be served promptly on all parties to the proceeding. Ten (10) copies of any exceptions to the Hearing Officer's Report and Recommendations may be filed by any party with the Civil Service Commission within ten (10) calendar days after the service of the report and recommendations, provided, however that the President of the Civil Service Commission may for good cause shown extend the time for filing such exceptions. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such services shall be furnished to the Civil Service Commission.

5-6.101e Filing Of Exceptions:

Exceptions to a Hearing Officer's Report and Recommendations shall:

1. Cite the precise findings of fact, conclusion, or procedure to which exceptions are taken;
2. Identify that part of the Hearing Officer's Report and Recommendations to which objection is made;
3. Cite the precise portions of the transcript relied on and state the grounds for the exceptions.

Any exception to a finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived.

Any exception which fails to comply with the foregoing requirements may be disregarded.

Any brief in support of exceptions shall contain no matter not included within the scope of the exceptions.

Answering briefs to the exceptions, and cross-exceptions and supporting briefs, may be filed within ten (10) calendar days of the receipt of any exceptions filed by any other party. Copies of same shall be served simultaneously on all other parties, and a statement of such services, and ten (10) copies of such briefs and cross-exceptions shall be furnished to the Civil Service Commission.

5-6.101f Decisions:

Copies of the Hearing Officer's Report and Recommendations and any exceptions, answering briefs, or cross-exceptions received will be presented to the Civil Service Commission.

The Civil Service Commission, after consideration of the Hearing Officer's Report and Recommendations and any briefs or exceptions, will amend, modify, reject or adopt the Hearing Officer's Report and Recommendations and issue the Commission's decision to all parties.

PART 5-6 EXECUTION OF RELIEF

Subpart 5-6.101 Hearings Conducted by Hearing Officers Assigned by the
President of the Civil Service Commission

5-6.101a Subject:

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The President of the Civil Service Commission will from time to time review appeals outstanding before the Civil Service Commission to determine whether a sufficient backlog exists to assign hearing officers in accordance with N.J.A.C. 4:1-5.6.

If the President thereafter so decides he will distribute cases according to the following priorities:

- 1. Removals
- 2. Layoffs
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Ten (10) copies of the report and recommendations of hearing officers must be prepared and submitted to the Civil Service Commission in the written form described in N.J.A.C. 4:1-5.11(b) within 10 days from the date of hearing or within 10 days of return of the transcript of the hearing.

Copies of the Hearing Officer's Report and Recommendations will be served promptly on all parties to the proceeding. Ten (10) copies of any exceptions to the Hearing Officer's Report and Recommendations may be filed by any party with the Civil Service Commission within ten (10) calendar days after the service of the report and recommendations, provided, however that the President of the Civil Service Commission may for good cause shown extend the time for filing such exceptions. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such services shall be furnished to the Civil Service Commission.

PART 5-6 EXECUTION OF RELIEF

Subpart 5-6.101 Hearings Conducted by Hearing Officers Assigned by the
President of the Civil Service Commission

5-6.101a Subject:

This subpart will govern the assignment of Hearing Officers by the President of the Civil Service Commission to conduct hearings on appeals from disciplinary or other administrative actions and will detail the procedures to be followed.

5-6.101b Assignment:

The President of the Civil Service Commission will from time to time review appeals outstanding before the Civil Service Commission to determine whether a sufficient backlog exists to assign hearing officers in accordance with N.J.A.C. 4:1-5.6.

If the President thereafter so decides he will distribute cases according to the following priorities:

1. Removals
2. Layoffs
3. Suspensions for more than 5 days
4. Demotions
5. Administrative Appeals

5-6.101c Conduct of Hearings:

Hearings before hearing officers designated by the President will adhere to the procedures outlined in N.J.A.C. 4:1-5.1 et seq. generally.

5-6.101d Submission of the Hearing Officer's Report and Recommendation:

Ten (10) copies of the report and recommendations of hearing officers must be prepared and submitted to the Civil Service Commission in the written form described in N.J.A.C. 4:1-5.11(b) within 10 days from the date of hearing or within 10 days of return of the transcript of the hearing.

Copies of the Hearing Officer's Report and Recommendations will be served promptly on all parties to the proceeding. Ten (10) copies of any exceptions to the Hearing Officer's Report and Recommendations may be filed by any party with the Civil Service Commission within ten (10) calendar days after the service of the report and recommendations, provided, however that the President of the Civil Service Commission may for good cause shown extend the time for filing such exceptions. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such services shall be furnished to the Civil Service Commission.

PART 5-6 EXECUTION OF RELIEF

Subpart 5-6.101 Hearings Conducted by Hearing Officers Assigned by the President
of the Civil Service Commission

5-6.101a Subject:

This subpart will govern the assignment of Hearing Officers by the President of the Civil Service Commission to conduct hearings on appeals from disciplinary or other administrative actions and will detail the procedures to be followed.

5-6.101b Assignment:

The President of the Civil Service Commission will from time to time review appeals outstanding before the Civil Service Commission to determine whether a sufficient backlog exists to assign hearing officers in accordance with N.J.A.C. 4:1-5.6.

If the President thereafter so decides he will distribute cases according to the following priorities:

1. Removals
2. Layoffs
3. Suspensions for more than 5 days
4. Demotions
5. Administrative Appeals

5-6.101c Conduct of Hearings:

Hearings before hearing officers designated by the President will adhere to the procedures outlined in N.J.A.C. 4:1-5.1 et seq. generally.

5-6.101d Submission of the Hearing Officer's Report and Recommendation:

Ten (10) copies of the report and recommendations of hearing officers must be prepared and submitted to the Civil Service Commission in the written form described in N.J.A.C. 4:1-5.11(b) within 10 days from the date of hearing or within 10 days of return of the transcript of the hearing.

Copies of the Hearing Officer's Report and Recommendations will be served promptly on all parties to the proceeding. Ten (10) copies of any exceptions to the Hearing Officer's Report and Recommendations may be filed by any party with the Civil Service Commission within seven (7) calendar days after the service of the report and recommendations, provided, however that the President of the Civil Service Commission may for good cause shown extend the time for filing such exceptions. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such services shall be furnished to the Civil Service Commission.

5-6.101e Filing Of Exceptions:

Exceptions to a Hearing Officer's Report and Recommendations shall:

1. Cite the precise findings of fact, conclusion, or procedure to which exceptions are taken;
2. Identify that part of the Hearing Officer's Report and Recommendations to which objection is made;
3. Cite the precise portions of the transcript relied on and state the grounds for the exceptions.

Any exception to a finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived.

Any exception which fails to comply with the foregoing requirements may be disregarded.

Any brief in support of exceptions shall contain no matter not included within the scope of the exceptions.

Answering briefs to the exceptions, and cross-exceptions and supporting briefs, may be filed within ten (10) calendar days of the receipt of any exceptions filed by any other party. Copies of same shall be served simultaneously on all other parties, and a statement of such services, and ten (10) copies of such briefs and cross-exceptions shall be furnished to the Civil Service Commission.

5-6.101f Decisions:

Copies of the Hearing Officer's Report and Recommendations and any exceptions, answering briefs, or cross-exceptions received will be presented to the Civil Service Commission.

The Civil Service Commission, after consideration of the Hearing Officer's Report and Recommendations and any briefs or exceptions, will amend, modify, reject or adopt the Hearing Officer's Report and Recommendations and issue the Commission's decision to all parties.

PART 5-8 RIGHTS OF PETITIONER AND OTHER PARTIES TO HEARING

Subpart 5-8.101 Representation by Legal Counsel

5-8.101a Purpose:

This subpart further interprets N.J.A.C. 4:1-5.8 regarding representation by legal counsel.

5-8.101b Interpretation:

As stated in N.J.A.C. 4:1-5.8, every party to a hearing shall be entitled to present his case in person or be represented by legal counsel.

The term "legal counsel" in addition to attorneys includes third year law students participating in a legal assistance program approved by the Supreme Court.

PART 5-10 CONDUCT OF HEARINGS

Subpart 5-10.101 Advancing Appeals For Stipulation On The Record Below

5-10.101a Subject:

This subpart will deal with the advancing of appeals made to the Civil Service Commission on its hearing calendar in return for stipulation by both parties that the hearing may be held on the record below.

5-10.101b Application:

Appeals brought before the Civil Service Commission shall be advanced along the Commission's hearing calendar if a stenographic record from the hearing below, agreed upon by attorneys from both parties, is presented. Supplemental briefs shall also be accepted. This entire record shall be referred to a Hearing Officer or a Commissioner who shall base the decision thereon.

If the appellant is not represented by an attorney the appellant's witnesses shall be required to testify that their testimony would be the same if they testified again at a Commission hearing. Said witnesses shall be permitted to add relevant, additional facts. If witnesses are not available to testify affidavits stipulating the above shall suffice.

Subpart 5-10.102 Conduct Of Departmental Hearings

5-10.102a Purpose:

The contents of this subpart are set forth in order to ensure that all parties involved in a departmental hearing as prescribed by N.J.A.C. 4:1-5.15 are afforded due process during the course of the hearing.

5-10.102b Regulation:

In all disciplinary hearings the burden of proof shall be on the appointing authority except in those cases where an employee has been released at the end of his or her working test period. In such cases, the burden of proof shall be on the employee to demonstrate the action was taken in bad faith.

5-10.102c Conduct of Hearing:

All hearings shall be conducted in an informal manner, without reference to any formal rules of evidence, but subject to the following principles:

1. The hearing officer shall admit all testimony having reasonable probative value, but may exclude immaterial, irrelevant, or unduly cumulative testimony.
2. Direct and cross-examination of witnesses shall be allowed.
3. The petitioning employee shall not be required to testify, but if he or she does testify voluntarily, he or she may be cross-examined upon any matter relevant to the hearing.
4. No person shall serve as a hearing officer where he or she is the one who preferred the respective charges.

5-10.102d Findings and Decision:

1. The hearing officer shall issue a decision within 30 days of the hearing unless a later or earlier date is mutually agreed upon by the parties.

2. The decision shall include:

- (1) A short statement of the nature of the proceedings.

5-10.102d (cont'd)

(b) Discussion of any testimony or evidence which merits special analysis.

(c) Specific finding of fact, noted as such.

(d) Specific conclusion and decision based on findings of fact and applicable laws and rules.

5-10.102e Witnesses:

1. Departmental policies regarding the procedural steps to be taken in requesting witnesses shall be followed.

2. It shall be within the discretion of the hearing officer presiding to determine the necessity of specific witnesses on the basis of whether the testimony to be elicited from such witnesses would be immaterial, irrelevant, or unduly cumulative.

5-10.102f Time Off:

All appellants and witnesses in payroll status at the time of the hearing shall be given time off during their normal working hours.

Civil Service Personnel Manual
(State Service)

Series 5
Part 5-15

PART 5-15 DEPARTMENTAL HEARING

Subpart 5-15.101 Departmental Hearing Under N.J.A.C. 4:1-5.15 When
Disciplinary Action Arises From Indictment or Criminal
Complaint Lodged Against Classified Employees

5-15.101a Purpose:

This subpart further interprets N.J.A.C. 4:1-5.15(b) and applies to employees suspended, fined, demoted or removed pending the outcome of indictment or criminal complaint against them to be adjudicated in a court of law.

5-15.101b Interpretation:

Please note that N.J.A.C. 4:1-5.15 states:

a. In every disciplinary action involving a permanent employee where the contemplated penalty may be:

1. Suspension of more than five days at one time;
2. Suspensions or fines more than three times or for an aggregate of more than fifteen (15) days in one calendar year;
3. Demotion; or
4. Removal;

the employee shall have the right to a departmental hearing.

b. Such departmental hearings shall be commenced as soon as possible and not later than thirty (30) days after service of a copy of the charges.

5-15.101c Criminal Complaints Or Indictments:

If a criminal complaint or indictment is brought against a classified employee a hearing by the department must still be held within 30 days unless the employee, in writing, waives the hearing pending the court's disposition of indictment or complaints.

Civil Service Personnel Manual
(State Service)

Series 5
Part 5-15

5-15.101c (cont'd)

An employee is not prohibited from appealing to the Civil Service Commission for a hearing prior to the disposition of indictment or complaint in court. However, it is the policy of the Civil Service Commission not to schedule such hearings until the criminal issues are disposed of by the Court.

5-15.101d Departmental Charges Prior To Disciplinary Action:

When an appointing authority wishes to suspend, fine, remove or demote an employee solely because of an indictment or criminal complaint the Form CS-31A must charge the indictment or complaint itself and the wording therein. A suspension may be for an indefinite time and may extend beyond 6 months despite N.J.A.C. 4:1-16.7(a)3, but may not go beyond the date of disposition of the indictment or criminal complaint.

5-15.101e Departmental Hearing:

Suspension, fine, demotion or removal for indictment or criminal complaint is not mandatory, but if imposed the department must hold a hearing to show good cause why such action is appropriate.

(1) At this hearing the issue should not be the merits of the indictment or complaint but whether they warrant the findings that the public interest would best be served by the contemplated disciplinary action until disposition. Such considerations could include:

- a. Whether the indictment is related to the accused employee's performance of official duties, or
- b. Whether the penalty would inhibit the performance of fellow employees, or
- c. Any other reasonable contention by the appointing authority.

(2) Nevertheless, despite the above an appointing authority if it so decides, is not prohibited from conducting a hearing on the basis of charges and evidence which are related to the merits of the indictment or criminal complaint.

PART 5-15 DEPARTMENTAL HEARING

Subpart 5-15.101 Departmental Hearing Under N.J.A.C. 4:1-5.15 When Disciplinary Action Arises From Indictment or Criminal Complaint Lodged Against Classified Employees

5-15.101a Purpose:

This subpart further interprets N.J.A.C. 4:1-5.15(d) and applies to employees suspended, fined, demoted or removed pending the outcome of indictment or criminal complaint against them to be adjudicated in a court of law.

5-15.101b Interpretation:

Please note that N.J.A.C. 4:1-5.15 states:

a. In every disciplinary action involving a permanent employee where the contemplated penalty may be:

1. Suspension of more than five days at one time;
2. Suspensions or fines more than three times or for an aggregate of more than fifteen (15) days in one calendar year;
3. Demotion; or
4. Removal;

the employee shall have the right to a departmental hearing.

b. Such departmental hearings shall be commenced as soon as possible and not later than thirty (30) days after service of a copy of the charges.

5-15.101c Criminal Complaints Or Indictments:

If a criminal complaint or indictment is brought against a classified employee a hearing by the department must still be held within 30 days * unless the employee, in writing, waives the hearing pending the court's disposition of indictment or complaints.

*Police officers are exempt from prompt departmental hearings if the conditions of N.J.S.A. 40A:149.1 are met.

5-15.101c (cont'd)

An employee is not prohibited from appealing to the Civil Service Commission for a hearing prior to the disposition of indictment or complaint in court. However, it is the policy of the Civil Service Commission not to schedule such hearings until the criminal issues are disposed of by the Court.

5-15.101d Departmental Charges Prior To Disciplinary Action:

When an appointing authority wishes to suspend, fine, remove or demote an employee solely because of an indictment or criminal complaint, the Form CS-31A must charge the indictment or complaint itself and the wording therein. A suspension may be for an indefinite time and may extend beyond 6 months despite N.J.A.C. 4:1-16.7(a)3, but may not go beyond the date of disposition of the indictment or criminal complaint.

5-15.101e Departmental Hearing:

Suspension, fine, demotion or removal for indictment or criminal complaint is not mandatory, but if imposed the department must hold a hearing to show good cause why such action is appropriate.

(1) At this hearing the issue should not be the merits of the indictment or complaint but whether they warrant the findings that the public interest would best be served by the contemplated disciplinary action until disposition. Such considerations could include:

- a. Whether the indictment is related to the accused employee's performance of official duties, or
- b. Whether the penalty would inhibit the performance of fellow employees, or
- c. Any other reasonable contention by the appointing authority.

(2) Nevertheless, despite the above an appointing authority if it so decides, is not prohibited from conducting a hearing on the basis of charges and evidence which are related to the merits of the indictment or criminal complaint.

PART 5-15 DEPARTMENTAL HEARING

Subpart 5-15.101 Departmental Hearing Under N.J.A.C. 4:1-5.15 When Disciplinary Action Arises From Indictment Or Criminal Complaint Lodged Against Classified Employees

5-15.101a Purpose:

This subpart further interprets N.J.A.C. 4:1-5.15(d) and applies to employees suspended, fined, demoted or removed pending the outcome of indictment or criminal complaint against them to be adjudicated in a court of law.

5-15.101b Interpretation:

Please note that N.J.A.C. 4:1-5.15 states:

a. In every disciplinary action involving a permanent employee where the contemplated penalty may be:

1. Suspension of more than five days at one time;
2. Suspensions or fines more than three times or for an aggregate of more than fifteen (15) days in one calendar year;
3. Demotion; or
4. Removal;

the employee shall have the right to a departmental hearing.

b. Such departmental hearings shall be commenced as soon as possible and not later than thirty (30) days after service of a copy of the charges.

5-15.101c Criminal Complaints Or Indictments:

If a criminal complaint or indictment is brought against a classified employee a hearing by the department must still be held within 30 days unless the employee, in writing, waives the hearing pending the court's disposition of indictment or complaint.

SUPERSEDED

SUPERSEDED

5-15.101c (cont'd)

An employee is not prohibited from appealing to the Civil Service Commission for a hearing prior to the disposition of indictment or complaint in court.

5-15.101d Departmental Charges Prior To Disciplinary Action:

When an appointing authority wishes to suspend, fine, remove or demote an employee solely because of an indictment or criminal complaint the Form CS-31A must charge the indictment or complaint itself and the wording therein. A suspension may be for an indefinite time and may extend beyond 6 months despite N.J.A.C. 4:1-16.7(a)3, but may not go beyond the date of disposition of the indictment or criminal complaint.

5-15.101e Departmental Hearing:

Suspension, fine, demotion or removal for indictment or criminal complaint is not mandatory, but if imposed the department must hold a hearing to show good cause why such action is appropriate.

(1) At this hearing the issue should not be the merits of the indictment or complaint but whether they warrant the findings that the public interest would best be served by the contemplated disciplinary action until disposition. Such considerations could include:

- a. Whether the indictment is related to the accused employee's performance of official duties, or
- b. Whether the penalty would inhibit the performance of fellow employees, or
- c. Any other reasonable contention by the appointing authority.

(2) Nevertheless, despite the above an appointing authority if it so decides, is not prohibited from conducting a hearing on the basis of charges and evidence which are related to the merits of the indictment or criminal complaint.

Subpart 5-15.102 Service Of CS-31B Forms By Appointing Authorities

5-15.102a Purpose:

This subpart further interprets N.J.A.C. 4:1-5.15 regarding time limits for departmental hearings.

5-15.102b Interpretation:

As stated in N.J.A.C. 4:1-5.15, departmental hearings are required to be held not later than thirty (30) days after service of a copy of the charges (Form CS-31A).

Effective June 1, 1973, appointing authorities will be required to furnish the Final Notice of Disciplinary Action (Form CS-31B) containing the decision arising from the departmental hearing to the employee and the Department of Civil Service within 30 days of the date of hearing unless for good and sufficient reason the Chief Examiner and Secretary permits an extension of time.

Subpart 5-15.103 Appeal For Departmental Hearing

5-15.103a Subject:

This subpart prescribes the regulation to be followed by an employee who receives a disciplinary penalty enumerated in N.J.A.C. 4:1-5.15 and desires a departmental hearing.

5-15.103b Regulation:

1. Any permanent employee who receives a penalty as described in N.J.A.C. 4:1-5.15 must appeal within ten days of receipt of notice of discipline in order to be granted a departmental hearing.

2. Employees who fail to appeal within the ten days prescribed above shall not be entitled to a departmental hearing; nevertheless, such employees may appeal their penalty to the Civil Service Commission.

Subpart 5-15.103 Appeal For Departmental Hearing

5-15.103a Subject:

This subpart prescribes the regulation to be followed by an employee who receives a disciplinary penalty enumerated in N.J.A.C. 4:1-15.5 and desires a departmental hearing.

5-15.103b Regulation:

1. Any permanent employee who receives a penalty as described in N.J.A.C. 4:1-15.5 must appeal within ten days of receipt of notice of discipline in order to be granted a departmental hearing.

2. Employees who fail to appeal within ten days prescribed above shall not be entitled to a departmental hearing; nevertheless, such employees may appeal their penalty to the Civil Service Commission.

**CIVIL SERVICE PERSONNEL MANUAL
(STATE SERVICE)**

Series 6

Position Classification and Reclassification

CIVIL SERVICE PERSONNEL MANUAL
(STATE SERVICE)

The following subpart has been repealed. Please remove the subpart from your manual:

<u>Subpart</u>	<u>Issue Date</u>	<u>Repeal Date</u>
6-3.101	7/27/73	9/10/81

PART 6-3 CLASSIFICATION OF POSITIONS

Subpart 6-3.101 Neuter Position Classifications

6-3.101a Subject:

This subpart deals with the use of neuter class titles where the current title is identified as having a fixed gender.

6-3.101b Policy:

It is the policy of the Civil Service Commission to remove all forms of discrimination on the basis of sex. Accordingly, Civil Service class titles, wherever possible, will be identified by language that does not specify or imply a fixed gender. In those instances where an occupation has been traditionally described in terms denoting a fixed gender and a plausible neuter title cannot be found, the title will be followed by the designation M/W (example: Foreman (Trades) M/W). The M/W designation indicates that the job title is applicable to both men and women.

Subpart 6-3.102 Determination And Application Of Non-Discriminatory Titles
By The Department Of Civil Service

6-3.102a Subject:

This subpart will prescribe that class titles shall be established and/or revised so as to reflect non-discriminatory job practices.

6-3.102b Definitions:

1. Non-Discriminatory - a class title which does not express, overtly or covertly any limitation, specification, preference or discrimination based on race, creed, color, national origin, ancestry, age, marital status, physical handicap, or sex, or has the intent of making such a limitation unless such is a bona fide occupational qualification, shall be considered non-discriminatory.
2. Bona Fide Occupational Qualification - qualifications which are reasonably necessary to the successful performance of the function.

6-3.102c Policy:

Any class title which contains words, phrases, or expressions which tend to influence, persuade or dissuade, encourage or discourage, attract or repel, any person or persons because of race, creed, color, national origin, ancestry, age marital status, physical handicap, or sex and such are not bona fide occupational qualifications shall be changed to utilize a non-discriminatory title wherever practicable.

6-3.102d Limitations:

1. Where not practicable to change the title, the designation "M/W" meaning man or woman, is to be used as part of the title.

Example: Foreman, M/W

2. If the use of "M/W" or a neutral class title is not feasible, the use of the non-neutral title and the title which is the sex counterpart may be used subject to the approval of the Department of Civil Service.

Example: Salesman/Saleswoman

SUPERSEDED

Civil Service Personnel Manual
(State Service)

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Series 6
Part 6-3

6-3.102e Application:

Changes implementing the use of non-discriminatory titles should take into account all of the following factors:

1. Specifications should reflect the non-discriminatory titles.
2. Certifications which are issued for newly implemented non-discriminatory titles should be issued under such titles.
3. All new record cards and future notations on existing record cards should indicate non-discriminatory titles.
4. All examination announcements and other documents containing job titles or job descriptions will utilize the non-discriminatory title or its substitute.

PART 6-3 CLASSIFICATION OF POSITIONS

Subpart 6-3.103 Determination Of Bona Fide Occupational Qualifications

6-3.103a Subject:

This subpart describes the policy and procedure by which a bona fide occupational qualification is to be determined for specific positions in the classified service.

6-3.103b Policy:

In seeking admission to the classified service, no person shall be discriminated against because of age, sex, marital status, handicap, race, ancestry, national origin, political or religious opinions or affiliations, or criminal record, unless the criminal record relates adversely to the employment sought. Non-discriminatory practices require that persons be considered on the basis of individual capacities and not on the basis of any qualities generally attributed to a group.

The Department of Civil Service shall, however, permit the practice of employing individuals on the basis of that person's sex or national origin in instances where sex or national origin is a bona fide occupational qualification.

6-3.103c Definitions:

1. A bona fide occupational qualification is one which is reasonable and necessary for effective job performance. For example, a bona fide occupational qualification could be based on the need to protect the interests of privacy of institutionalized inmates. Where the normal responsibilities of the position require the employee to perform pat frisks of inmates and/or supervise living quarters in which the inmates are unclothed, a bona fide occupational qualification could be appropriate.

2. The following shall NOT warrant the application of a bona fide occupational qualification:

(a) Faulty assumptions such as comparative employment characteristics of women in general (e.g., the turnover rate among women is higher than among men);

(b) Stereotyped characterizations of the type of work performed (e.g., men are less capable of assembling intricate equipment than women; women are less capable of lifting or carrying items exceeding certain weight limits);

6-3.103 (cont'd)

(c) Anticipated or existing preference of co-workers, supervisors, clients or customers;

(d) The quality or quantity of work (e.g., women are excluded from jobs scheduled during certain hours of the night, or for more than a specific number of hours per day or week).

6-3.103d Procedure:

1. A request for approval to assign a bona fide occupational qualification to a specific position shall be directed to the Director, Division of Classification and Compensation.

2. Upon request for such a qualification restriction, the Directors of the Division of Classification and Compensation and the Division of Equal Employment Opportunity/Affirmative Action will evaluate the request for the qualification restriction.

3. A recommendation will be made by the Directors of the Division of Classification and Compensation and the Division of Equal Employment Opportunity/Affirmative Action to the Chief Examiner and Secretary who will make a determination. Copies of the determination will be forwarded to the Civil Service Commission for informational purposes on the request.

6-3.103e Appeal

Appeals from the determination of the Chief Examiner and Secretary may be made to the Civil Service Commission. Such appeals must be submitted within 20 calendar days of notice of the Chief Examiner and Secretary's determination.

The burden of proof that the qualification restriction is a bona fide occupational requirement lies with the appointing authority.

Subpart 8-6.103 Professional Qualifications Substitution Program

8-6.103a Subject:

This subpart provides for substituting appropriate prior work experience for college educational requirements for entry-level professional titles.

8-6.103b Policy:

It is the policy of the Civil Service Commission to encourage career development and upward mobility for employees and prospective employees. Therefore, experience appropriate to the related profession may be substituted for college educational requirements for designated open competitive or promotional examinations.

8-6.103c Standards:

1. Applicants may be considered eligible to take entry-level professional open competitive and promotional examinations by substituting appropriate work experience for college educational requirements.
2. Appropriate prior work experience shall be substituted on a year for year basis--e.g., five years of appropriate prior work experience may be substituted for a requirement of a B.A. degree and one year of experience.
3. For those class titles which require only specific course work or major fields of study, the successful completion of same shall be required and no substitution of experience for such requirements will be permitted unless the specific course work has been completed.
4. Non-professional career employees must have permanent status and the required time in grade to be considered eligible to take promotional examinations.

8-6.103d Procedure:

1. The Department of Civil Service will announce and conduct open competitive and promotional examinations.
2. Announcement of open competitive examinations will be made in the regular monthly "Job Opportunities Bulletin". The Bulletin shall include general information on eligibility requirements and how prospective applicants may utilize the Professional Qualifications Substitution Program outlined above.
3. Appointing authorities shall post, for ready access to employees, information about how employees may utilize the Professional Qualifications Substitution Program as outlined above.

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Civil Service Personnel Manual
(State Service)

Series 8
Part 8-6

NOTE: See Subpart 8-6.104 for provisions
for substituting CLEP (College Level
Examination Program) scores for
college educational requirements.

Subpart 6-3.103 Determination Of Bona Fide Occupational Qualifications

6-3.103a Subject:

This subpart deals with the procedure by which a bona fide occupational qualification is to be determined for class titles in the classified service.

6-3.103b Policy:

In seeking admission to the classified service, no person shall be discriminated against because of political or religious opinions or affiliations nor because of sex, race, ancestry or national origin as specified in N.J.A.C. 4:1-21.2. The principles of non-discrimination require individuals be considered on the basis of individual capacities and not on the basis of any qualities generally attributed to a group. As indicated in Subpart 6-3:101, the general policy of the Department of Civil Service shall be to use neuter class titles and to eliminate discrimination in employment in the classified service.

The Department of Civil Service shall, however, permit the practice of employing individuals on the basis of that person's sex or national origin in instances where sex or national origin is a bona fide occupational qualification reasonably necessary to facilitate the normal operation of a function of the appointing authority. Upon request for such a qualification restriction, the Director of the Division of Classification and Compensation in consultation with the Career Development Unit will evaluate the qualification. A recommendation will be made by the Director of Classification and Compensation to the Chief Examiner and Secretary who will make a determination. Copies of the determination will be forwarded to the Civil Service Commission for recording purposes. The burden of proof that the qualification restriction is a bona fide occupational requirement lies with the appointing authority. Such a restriction is to be strictly interpreted.

Appeals from the determination of the Chief Examiner and Secretary may be made to the Civil Service Commission. Such appeals must be submitted within 20 days of notice of the Chief Examiner and Secretary's determination.

6-3.103c Authority:

This subpart is based on the provisions of Title VII of the Federal Civil Rights Act of 1964, as amended. No State statute, local ordinance, or local resolution shall cause the Department of Civil Service to discriminate on the basis of sex or national origin. Only in instances where a bona fide occupational requirement is reasonable and necessary will the Department of Civil Service approve the employment of an individual on the basis of sex or national origin. Each case will be decided on its own merit.

6-3.103d Illustrations:

The following shall NOT warrant the application of a bona fide occupational qualification:

- (1) If the request is based on faulty assumptions such as comparative employment characteristics of women in general (e.g., the turnover rate among women is higher than among men);
- (2) If the request is based on stereotyped characterizations of the type of work performed (e.g., men are less capable of assembling intricate equipment than women; women are less capable of aggressive behavior);
- (3) If the request is based on anticipated or existing preference of co-workers, supervisors, clients or customers;
- (4) If the request is based on the quality or quantity of work (e.g., females are excluded from jobs (a) requiring lifting or carrying items exceeding certain weight limits, (b) scheduled during certain hours of the night, or (c) scheduled for more than a specific number of hours per day or week).

The following SHALL warrant the application of a bona fide occupational qualification:

- (1) If the request is based on the need to protect the interests to privacy of institutionalized inmates, where the normal responsibilities of the position require the employee to perform pat frisks of inmates and/or supervision in living quarters where it would be necessary to observe the inmates unclothed.

Subpart 6-3.103 Determination Of Bona Fide Occupational Qualifications

6-3.103a Subject:

This subpart deals with the procedure by which a bona fide occupational qualification is to be determined for class titles in the classified service.

6-3.103b Policy:

In seeking admission to the classified service, no person shall be discriminated against because of political or religious opinions or affiliations nor because of sex, race, ancestry or national origin as specified in N.J.A.C. 4:1-21.2. The principles of non-discrimination require individuals be considered on the basis of individual capacities and not on the basis of any qualities generally attributed to a group. As indicated in Subpart 6-3.101, the general policy of the Department of Civil Service shall be to use neuter class titles and to eliminate discrimination in employment in the classified service.

The Department of Civil Service shall, however, permit the practice of employing individuals on the basis of that person's sex or national origin in instances where sex or national origin is a bona fide occupational qualification reasonably necessary to facilitate the normal operation of a function of the appointing authority. Upon request for such a qualification restriction, the Director of the Division of Classification and Compensation in consultation with the Career Development Unit will evaluate the qualification. A recommendation will be made by the Director of Classification and Compensation to the Chief Examiner and Secretary who will make a determination which will be presented to the Civil Service Commission for approval of such requests. The burden of proof that the qualification restriction is a bona fide occupational requirement lies with the appointing authority. Such a restriction is to be strictly interpreted.

6-3.103c Authority:

This subpart is based on the provisions of Title VII of the Federal Civil Rights Act of 1964, as amended. No State statute, local ordinance, or local resolution shall cause the Department of Civil Service to discriminate on the basis of sex or national origin. Only in instances where a bona fide occupational requirement is reasonable and necessary will the Department of Civil Service approve the employment of an individual on the basis of sex or national origin. Each case will be decided on its own merit.

6-3.103d Illustrations:

The following shall NOT warrant the application of a bona fide occupational qualification:

- (1) If the request is based on faulty assumptions such as comparative employment characteristics of women in general (e.g., the turnover rate among women is higher than among men);
- (2) If the request is based on stereotyped characterizations of the type of work performed (e.g., men are less capable of assembling intricate equipment than women; women are less capable of aggressive behavior);
- (3) If the request is based on anticipated or existing preferences of co-workers, supervisors, clients or customers;
- (4) If the request is based on the quality or quantity of work (e.g., females are excluded from jobs (a) requiring lifting or carrying items exceeding certain weight limits, (b) scheduled during certain hours of the night, or (c) scheduled for more than a specific number of hours per day or week).

SUPERSEDED

Subpart 6-3.103 Determination Of Bona Fide Occupational Qualifications

6-3.103a Subject:

This subpart deals with the procedure by which a bona fide occupational qualification is to be determined for class titles in the classified service.

6-3.103b Policy:

In seeking admission to the classified service, no person shall be unlawfully discriminated against because of sex or other characteristics as specified in N.J.A.C. 4:1-21.2. The principle of non-discrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any qualities generally attributed to a group. Therefore, as indicated in Subpart 6-3.101, the general policy of the Department of Civil Service shall be to use neuter class titles and to eliminate sex discrimination in employment in the classified service.

The Department of Civil Service shall, however, permit differential treatment on the basis of sex when such action is determined by the Director of Classification and Compensation to be a bona fide occupational requirement.

6-3.103c Limitations:

The following shall not warrant the application of the bona fide occupational qualification exception for creating sex differentiated class titles:

1. If the title is based on faulty assumptions of the comparative employment characteristics of women in general (e.g., the turnover rate among women is higher than among men);
2. If the title is based on stereotypical characterizations of the type of work performed by the sexes (e.g., men are less capable of assembling intricate equipment or that women are less capable of aggressive behavior);
3. If the title is based on the anticipated or existing preferences of co-workers, supervisors, clients or customers;
4. If the title limits the quality or quantity of work by sex (e.g., females are excluded from jobs (a) requiring the lifting or carrying of weights exceeding certain limits, (b) scheduled during certain hours of the night or (c) scheduled for more than a specified number of hours per day or week).

SUPERSEDED

SUPERSEDED

6-3.103c (cont'd)

In as much as this subpart is based on the provisions of Title VII of the Federal Civil Rights Act of 1964 as amended, no State statute, local ordinance, or local resolution shall cause the Department of Civil Service to discriminate on the basis of sex where such action is not based on a bona fide occupational requirement.

PART 6-5 RECLASSIFICATION OF POSITIONS

Subpart 6-5.101 Appeals From Classification Or Reclassification Of
Positions

6-5.101a Subject:

This subpart will describe the procedures to be followed by (a) employees in classified positions, or (b) appointing authorities, who object to the classification or reclassification of a position or positions.

6-5.101b Entitlement:

Both an employee and an appointing authority may appeal pursuant to N.J.A.C. 4:1-6.5(b).

6-5.101c Time For Appeal:

An appeal of a classification or reclassification may be made no later than 20 calendar days from the effective date of action, or notice of the action, which is in dispute.

6-5.101d Appeal Procedure:

Employees, Appointing Authorities, Employee Groups:

1. An employee aggrieved by the current or proposed classification of his position shall first appeal in writing to his appointing authority through the Personnel Office stating the reasons for which he believes his position to be incorrectly classified.

2. The appointing authority shall review the appeal and advise the appellant of its view in writing within 10 calendar days. If the appointing authority determines that reclassification would be appropriate, it shall follow existing administrative procedures to request reclassification by the Department of Civil Service.

3. If the appointing authority determines that the position is correctly classified or if no reply is received from the appointing authority within 10 days, the employee may appeal further in writing within 21 days to:

Department of Civil Service
Director, Division of Classification
and Compensation
Arnold Constable Building
Front and Montgomery Streets
Trenton, New Jersey 08625

stating the reasons for which he believes his position to be incorrectly classified.

6-5.101d (cont'd)

4. The Division Director shall after thorough review and investigation of the complaint respond to the appellant by letter which will include:

- a. the decision of the Director with respect to appeal, the Civil Service Rule citations on which the Director relies,
- b. a detailed statement of the pertinent facts upon which the Director's action is based,
- c. a statement that the appeal may be pursued within 20 days to the Civil Service Commission through the Chief Examiner and Secretary,
- d. the address of the Hearings and Regulations Section, to which such appeals should be forwarded.

5. Upon receipt of the appeal forwarded through the Hearings and Regulations Section the Chief Examiner and Secretary will:

- a. render a decision based upon the report of the Director affirming, rejecting or modifying the recommendations, inform all interested parties and direct such action as necessary, or
- b. appoint a Classification Appeals Reviewer who shall hold an informal review and report his findings, conclusions and recommendations; the Chief Examiner and Secretary will then proceed as in 5(a) above, or
- c. refer the appeal, with or without the Classification Appeals Reviewer's recommendations, to the Civil Service Commission for a hearing.

6. An employee appealing his current or proposed classification is entitled to representation by counsel or by an employee organization at every level except that of the Civil Service Commission. Representation before the Civil Service Commission may be by the employee himself or by legal counsel.

7. Appointing authorities may appeal a refusal by the Department of Civil Service to reclassify a position as requested in the same manner as an employee.

6-5.101e Classification Appeals Reviewer:

A Classification Reviewer may be appointed by the Chief Examiner and Secretary on a per diem basis to review any of the above appeals and prepare a report and recommendation for action by the Chief Examiner and Secretary.

The Classification Appeals Reviewer will be appointed after consideration of experience, education and background suitable to the duties of that position. The report and recommendation of the Classification Reviewer will be in writing and will not be a final decision, but a guide for the Chief Examiner and Secretary in taking action in a classification appeal.

6-5.101f Participation By Employee Organizations:

The first step of a classification appeal shall be the appointing authority even though employee organizations may first contact the Department of Civil Service.

When an employee organization requests a number of appeals, these appeals shall be scheduled separately and time off for the parties shall be granted only for their individual appeals.

Employee organizations shall contact the Department of Civil Service through the Chief, Hearings and Regulations in order to appeal from a decision by the appointing authority.

6-5.102e Conditions:

By July 1, 1978 and each year thereafter, each department and agency shall submit to the Director of Classification and Compensation a listing of all reclassification actions accomplished during the preceding year. A form will be provided for this and the information will be reviewed by the Joint Reclassification Committee.

If a post audit of a reclassified position reveals that it is not properly classified, the Department of Civil Service, after notice to the Appointing Authority, shall initiate remedial action to classify properly the position.

The Department of Civil Service reserves the right to revoke or suspend authority for pre-audit reclassification actions entirely or in limited areas if it is determined that there is misuse or abuse of such authority.

PART 6-6 CHANGES IN CLASSIFICATION PLANS

Subpart 6-6.101 Requests for New Titles to be Allocated to the Classification Plan

6-6.101a Subject:

This subpart will specify the responsibilities and procedures that will govern State Departments proposing new titles for allocation to the State Classification Plan.

6-6.101b Procedures for State Departments:

Requests for new titles must be initiated by a letter from the Personnel Officer from the Department or Agency addressed to the Director, Division of Classification and Compensation, Department of Civil Service. The letter must contain:

1. the new title
2. recommendations for an appropriate salary range
3. a complete job specification for the title
4. a brief explanation of why the new title is needed

6-6.101c Investigation by the Division of Classification and Compensation, Department of Civil Service:

Upon receipt of the letter, the Division of Classification and Compensation will determine through its normal investigative procedures whether the request is based on a clear and definite need for a new title. If there is such a need, the Division of Classification and Compensation will submit all pertinent information to the State Job Content Evaluation Committee.

6-6.101d Evaluation by State Job Content Evaluation Committee:

The Evaluation Committee will consist of a representative from the Division of Classification and Compensation, the Bureau of the Budget and the requesting Department. The Evaluation Committee will review the report of the Division of Classification and Compensation and the Departmental request in order to recommend an appropriate salary range.

6-6.101e Final Approval:

Thereafter, the Division of Classification and Compensation will prepare a summary recommendation in written form for review by the Chief Examiner and Secretary. The Chief Examiner and Secretary will then present the recommendation to the Civil Service Commission for their approval or disapproval.

Subpart 6-6.102 Use Of The Title "Consultant" In The State Service

6-6.102a Subject:

This subpart deals with the use of the unclassified, no-range title of Consultant in the State service.

6-6.102b Procedures:

A State executive department, institution, or agency may request the classification of a temporary new position in the title Consultant for full-time positions of duration of six months or less for which there is no existing title in the State Classification Plan in order to provide unique professional services of a nature not available in State government.

1. Such requests should be forwarded to the Division of Classification and Compensation for review. Only those requests which are in accordance with these regulations will be approved.

2. The Personnel Office of each State executive department, institution or agency shall ensure that the employment of individuals in the title Consultant will be restricted to six months or less, and that the individual being appointed to the title Consultant is informed of the terminal date of the employment.

3. Should a State executive department, institution or agency deem it necessary for the employment of a Consultant beyond six months, they shall correspond with the Division of Classification and Compensation two months prior to the termination date of that Consultant in order to determine the proper classification for the position that will continue beyond the six month period of time.

4. In no case may a Consultant be used beyond the six month period of time.

Part 6-7 ALLOCATION AND REALLOCATION OF CLASS TITLES

Subpart 6-7.101 Reallocation Of Title Between Divisions Of The Classified Service

6-7.101a Subject:

This subpart shall set forth the procedure to be used for reallocation of a title from one division of the classified service to another division of the classified service.

6-7.101b Application:

1. When a title is reallocated from the competitive division of the classified service to either the non-competitive division, the labor division or the exempt division of the classified service, employees in the reallocated title with permanent status in that title shall be placed on a special reemployment list of competitive titles previously held by the employee.

2. When a title is reallocated from the non-competitive division, the labor division or the exempt division of the classified service to the competitive division of the classified service, the employees serving in those titles with permanent status shall retain permanent status in the titles previously held, but shall not have promotion rights in the competitive division. Such employees may obtain promotion rights by passing an open competitive examination and receiving an appointment from an open competitive list for that title in the normal manner. Employees who receive such open competitive appointment will not be subject to another working test period.

3. The appointing authority shall be apprised of the contemplated reallocation before it goes into effect and be given 20 days in which to state objections.

SUPERSEDED

PART 6-7 ALLOCATION AND REALLOCATION OF CLASS TITLES

Subpart 6-7.101 Reallocation Of Title Between Divisions Of The Classified Service

6-7.101a Subject:

This subpart shall set forth the procedure to be used for reallocation of a title from one division of the classified service to another division of the classified service.

6-7.101b Application:

1. When a title is reallocated from the competitive division of the classified service to either the non-competitive division, the labor division or the exempt division of the classified service, employees in the reallocated title with permanent status in that title shall be placed on a special reemployment list of competitive titles previously held by the employee.

2. When a title is reallocated from the non-competitive division, the labor division or the exempt division of the classified service to the competitive division of the classified service, the employees serving in those titles with permanent status shall retain permanent status in the titles previously held, but shall not have promotion rights in the competitive division. Such employees may obtain promotion rights by passing an open competitive examination and receiving an appointment from an open competitive list for that title in the normal manner.

3. The appointing authority shall be apprised of the contemplated reallocation before it goes into effect and be given 20 days in which to state objections.

Subpart 6-7.102 Allocation Of Confidential Positions To Boards

6-7.102a Subject:

This subpart specifies the prerequisites for entitlements of Boards to confidential positions and appointments thereto under N.J.S.A. 11:4-4(m).

6-7.102b Conditions:

The following prerequisites must be met in order for unclassified confidential positions to be allocated to Boards under N.J.S.A. 11:4-4(m):

- (1) The Board must have the actual power to administer a statutorily designated function, and
- (2) The Board must have the power to appoint discharge and otherwise act with complete control over its personnel, as with any other appointing authority.

6-7.102c Procedures:

Requests for entitlement to confidential positions for statutorily created Boards should be made to the Director, Division of Classification and Compensation, Department of Civil Service, and must include documentation that the above conditions have been met. In addition, such requests must be accompanied by a certification from the Board that such positions are essential to the work of the Board.

**CIVIL SERVICE PERSONNEL MANUAL
(STATE SERVICE)**

Series 7
Compensation

PART 7-1 Compensation

Subpart 7-1.101 Titles Designated as NL4

7-1.101a Subject:

This subpart is issued to provide information concerning the provisions approved by the Civil Service Commission for individuals in NL (hours not limited) titles who supervise 40 hours per week employees.

7-1.101b Policy:

The Civil Service Commission approved the following changes in the compensation plan, effective June 22, 1974 (Salary Administration Memorandum No. 3-75):

"Effective June 22, 1974, salary ranges assigned to titles whose duties include supervision of employees in titles assigned a 40 hour work week will be allocated to ranges that are one range higher in the Pay Schedule than that range to which the job evaluation points convert, the same as if they were 40 hour week titles... Such titles will be designated in the Compensation Plan as NL4."

7-1.101c Application:

In accordance with the above policy, there is one condition to be met for a title to be designated as NL4. That condition is that the duties of the title require the incumbent(s) to work regularly at least a 40 hour week in order to directly supervise employees on a regular and continuous basis in titles assigned to a 40 hour work week.

7-1.101d Procedure

An Appointing Authority may request that a NL class title be designated NL4 by submitting a written request to the Director Division of Classification and Compensation. Upon receipt of the request, a review of the specific reasons for such designation shall be made and an investigation may be made, if necessary. If the request is not supported by the facts the Appointing Authority shall be promptly notified. If the request is justified the Director of Classification and Compensation shall forward a recommendation to the Chief Examiner and Secretary who may submit it to the Civil Service Commission for consideration.

7-2.101c (cont'd)

If the employee organization desires to appeal the determination, the Director of the Office of Employee Relations shall inform the Chief Examiner and Secretary accordingly. When the appeal is presented to the Civil Service Commission the State as the employer shall be represented by the Office of Employee Relations. If there is no appeal the salary reevaluation determination shall be placed before the Civil Service Commission pursuant to regular procedures.

7-3.101d Limitations:

Appeals must be decided prior to the signing of an agreement unless the parties stipulate otherwise.

PART 7-3 ADMINISTRATION OF THE COMPENSATION PLAN

Subpart 7-3.101 Determination Of Anniversary Dates

7-3.101a Subject:

This subpart will deal with the determination of quarterly anniversary dates for new employees, promoted employees, or employees who receive pay adjustments in State service.

7-3.101b Application:

In determining quarterly anniversary dates for employees who are newly hired, promoted or who receive pay adjustments or other actions that establish new anniversary dates, the final cut-off date for assigning the correct anniversary date shall be either the calendar quarterly date or the quarterly action date, whichever is later. In the event that the cut-off date, determined as above, falls on a non-working day the cut-off date shall become the first working date thereafter. Newly assigned anniversary dates should always be indicated on the form CS-21 in the space provided at Item 46.

7-3.101c Examples:

<u>Calendar Quarterly Date</u>	<u>Quarterly Action Date</u>	<u>Cut-Off Date</u>	<u>Anniversary Date Assigned</u>
10-1-73	9-29-73	10-1-73	AD10/74
1-1-74	1-5-74	1-7-74	AD1/75
4-1-74	3-30-74	4-1-74	AD4/75
7-1-74	6-22-74	7-1-74	AD7/75

7-3.101d Exceptions:

1. Anniversary dates for annual increments of academic employees who are employed by the Department of Education, Department of Higher Education and the Department of Institutions and Agencies on a 10 month working year basis are to be determined as follows:

- (a) Employees hired on any date up to and including the closing day of the bi-weekly pay period in which the first day of the 5 month semester falls, shall be given the anniversary date of the month during which the semester begins, i.e., February-AD2, September-AD9.

7-3.101d (cont'd)

(b) Such employees shall become eligible for an annual increment if merited, on the first day of the bi-weekly pay period 12 months later in which the corresponding semester begins. In the case of September anniversary dates, (AD9) the increment shall be applied on September 1.

(c) Those employees hired after the bi-weekly period get the anniversary date of the next following semester.

2. An employee, who has been promoted and whose effective date is the first day of the beginning of a pay period following the anniversary date cut-off, shall not have his or her anniversary date advanced to the next quarter.

3. An employee at the maximum of the range, for whom a CS-21 must be submitted, shall carry the anniversary date assigned during the year that the employee attained the maximum.

Subpart 7-3.102

Pay Adjustments For Employees Who Are Appointed To
Titles With Higher Salary Range Evaluations

7-3.102a

Subject:

This subpart deals with the salary increases given to employees who are appointed to titles with higher salary range evaluations, when such actions are not promotions covered under Subpart 7-3.103, effective June 23, 1973.

7-3.102b

Application:

1. Any employee appointed to a title with a higher salary range evaluation shall receive the salary of that step of the range of the class to which advancement has been made that provides an increase of at least one increment of the range of the class from which he or she has been advanced before workweek adjustment provided:

a. The employee has served continuously in the class title from which advancement is being made for at least four months immediately preceding the effective date of the advancement and,

b. The class title to which he or she is being advanced

(1) is in the same class series, occupational series or job family as that from which advancement is being made OR

(2) requires the same basic skills, abilities, and knowledge as are basic to the position from which advancement is being made and,

c. The appointing authority certified to the Division of Classification and Compensation, Department of Civil Service, that the employee's service in the lower title provided meaningful and significant preparation and training for satisfactory service in the title to which he or she is being advanced.

Examples:

(1) A truck driver being appointed to Principal Clerk would not be entitled to an increment because the titles are not in the same occupational series and service as Truck Driver does not prepare an employee for service as a Principal Clerk.

SUPERSEDED

Subpart 7-3.102 Pay Adjustments For Employees Who Are Appointed To Titles
With Higher Salary Range Evaluations

7-3.102a Subject:

This subpart deals with the salary increases given to employees who are appointed to titles with higher salary range evaluations, when such actions are not promotions covered under Subpart 7-3.103, effective June 23, 1973.

7-3.102b Application:

1. Any employee appointed to a title with a higher salary range evaluation shall receive the salary of that step of the range of the class to which advancement has been made that provides an increase of at least one increment of the range of the class from which he or she has been advanced provided:

a. The employee has served continuously in the class title from which advancement is being made for at least four months immediately preceding the effective date of the advancement and,

b. The class title to which he or she is being advanced

(1) is in the same class series, occupational series or job family as that from which advancement is being made OR

(2) requires the same basic skills, abilities, and knowledge as are basic to the position from which advancement is being made and,

c. The appointing authority certified to the Division of Classification and Compensation, Department of Civil Service, that the employee's service in the lower title provided meaningful and significant preparation and training for satisfactory service in the title to which he or she is being advanced.

Examples:

(1) A truck driver being appointed to Principal Clerk would not be entitled to an increment because the titles are not in the same occupational series and service as Truck Driver does not prepare an employee for service as a Principal Clerk.

SUPERSEDED

7-3.102b (cont'd)

(2) A Food Service Supervisor being appointed to Business Manager would be entitled to an increment because "food service" is an important part of the responsibilities of a Business Manager and service as a Food Service Supervisor would provide preparation for a significant portion of the Business Manager's duties.

In any case, no increase shall be applied which is not consistent with the best interests of the State Service.

2. Types of title changes covered by these regulations:

(1) Classified Service:

From RA to RA
From RA to PA
From PA to PA (Employee must have four months PA)
From NC or L to NC or L
From NC or L to Competitive RA or PA or vice versa

(2) Unclassified:

From UA to UA
From UA to PA or RA Competitive
From Competitive RA to UA

(3) Transfer or Resignation with no break in service.

This procedure shall not apply when the employee goes from a no range or single rate position to one having a salary range and vice versa.

3. When an employee at the maximum of the range has been at the maximum for at least one year he or she shall receive, if otherwise eligible, a normal increment in addition to the increment due by reason of the advancement, provided that the advancement increment does not take the employee to the new range maximum.

An employee who has been at the maximum for less than one year before the advancement shall retain the anniversary date and receive, if otherwise eligible, a normal increment at the next anniversary date, provided that he or she is not already at the maximum of the new range.

4. Any appointment to a higher title to which 7-3.102b above does not apply shall receive equalization only.

7-3.102b (cont'd)

(2) A Food Service Supervisor being appointed to Business Manager would be entitled to an increment because "food service" is an important part of the responsibilities of a Business Manager and service as a Food Service Supervisor would provide preparation for a significant portion of the Business Manager's duties.

In any case, no increase shall be applied which is not consistent with the best interests of the State Service.

2. Types of title changes covered by these regulations:

(1) Classified Service:

From RA to RA
From RA to PA
From PA to RA
From PA to PA (Employee must have four months PA)
From NC or L to NC or L
From NC or L to Competitive RA or PA or vice versa

(2) Unclassified:

From UA to UA
From UA to PA or RA Competitive
From Competitive RA to UA
From Competitive PA to UA

(3) Transfer or Resignation with no break in service.

This procedure shall not apply when the employee goes from a no range or single rate position to one having a salary range and vice versa.

3. When an employee at the maximum of the range has been at the maximum for at least one year he or she shall receive, if otherwise eligible, a normal increment in the new range in addition to the adjustment due by reason of the advancement, provided that the advancement adjustment does not take the employee to the new range maximum. (This provision shall not apply if the total adjustment, after workweek adjustment, is greater than three increments of the range from which the employee is advanced. The employee's anniversary date will be advanced based on the effective date of the action.)

An employee who has been at the maximum for less than one year before the advancement shall retain the anniversary date (retain month, advance year) and receive, if otherwise eligible, a normal increment at the next anniversary date, provided that he or she is not already at the maximum of the new range.

7-3.102b (cont'd)

An employee at the maximum of the range who is to be advanced five, six or seven ranges, after workweek adjustment, shall be ~~equalized into the higher salary range and receive one increment in the new range (two increments if at the maximum for at least one year).~~

4. Any appointment to a higher title to which 7-3.102b above does not apply shall receive equalization only. (Employee shall receive at ~~least equalization from the salary paid before application of any workweek adjustment.~~) If equalization results in a salary increase equal to or greater than one increment in the old range, (after workweek adjustment), the anniversary date shall be advanced one year. When an employee at the maximum of the range has been at the maximum for at least one year he or she shall receive, in addition to equalization, one increment in the new range. (This provision shall not apply if the total adjustment, after workweek adjustment, is greater than three increments of the range from which the employee is advanced. The employee's anniversary date will be advanced based on the effective date of the action.)

5. When the total pay increase (after workweek adjustment) is less than two increments of the range from which an employee is advanced, an employee will retain his or her anniversary date.

When the total amount of pay increase (after workweek adjustment) is equal to or greater than two increments of the range from which an employee is advanced, the employee shall be assigned a new anniversary date on the basis of the effective date of the salary increase. Such anniversary date shall be determined per Subpart 7-3.101.

SUPERSEDED

7-3.102b (cont'd)

5. When the total pay adjustment is less than two increments of the range from which an employee is advanced, an employee will retain his or her anniversary date.

When the total amount of pay adjustment is equal to or greater than two increments of the range from which an employee is advanced, the employee shall be assigned a new anniversary date on the basis of the effective date of the salary increase. Such anniversary date shall be determined per Subpart 7-3.101.

Subpart 7-3.103 Pay Adjustments and Changes In Anniversary Dates As A Result Of An Advancement Due To A Promotion Subject To Or Following Promotional Examination Procedures

7-3.103a Subject:

~~This subpart deals with the anniversary dates and pay adjustments for employees who are promoted.~~

7-3.103b Application:

1. An employee, when promoted from one class title to another, shall receive the salary of the step of the range of the promotional title that provides an increase of at least one increment in the range of the former title, before workweek adjustment.

2. a. When the total pay adjustment (after workweek adjustment) is less than two increments of the range from which an employee is advanced, the employee's anniversary date will be retained.

b. When the total amount of pay adjustment (after workweek adjustment) is equal to or greater than two increments of the range from which an employee is advanced, the employee shall be assigned a new anniversary date on the basis of the effective date of the salary increase.

3. When an employee at the range maximum has been at the maximum for at least one year the employee shall receive, if otherwise eligible, an increment, in the new range, in addition to the adjustment due by reason of the promotion, providing the promotional increment does not take the employee to the new range maximum. The anniversary date shall be determined by the effective date of the promotion. (This provision shall not apply if the total adjustment, after workweek adjustment, is greater than three increments of the range from which the employee is advanced. The employee's anniversary date will be advanced based on the effective date of the action.)

An employee who has been at the maximum for less than one year before the promotion, shall retain the anniversary date (retain month, advance year) and receive, if otherwise eligible, a normal increment on his or her next anniversary date, provided the employee is not already at the maximum of the new range.

An employee at the maximum of the range who is to be promoted five, six or seven ranges, after workweek adjustments, shall be equalized into the higher salary range and receive one increment in the new range (two increments if at the maximum for at least one year).

SUPERSEDED

Subpart 7-3.103 Pay Adjustments And Changes In Anniversary Dates As A Result Of An Advancement Due To A Promotion Subject To Or Following Promotional Examination Procedures

7-3.103a Subject:

This subpart deal with the anniversary dates and pay adjustments for employees who are promoted, effective June 23, 1973.

7-3.103b Application:

1. An employee, when promoted from one class title to another, shall receive the salary of that step of the range of the promotional title that provides an increase of at least one increment in the range of the former title.

2. a. When the total pay adjustment is less than two increments of the range from which an employee is advanced, the employee's anniversary date will be retained.

b. When the total amount of pay adjustment is equal to or greater than two increments of the range from which an employee is advanced, the employee shall be assigned a new anniversary date on the basis of the effective date of the salary increase.

3. When an employee at the range maximum has been at the maximum for at least one year the employee shall receive, if otherwise eligible, a normal increment in addition to the increment due by reason of the promotion, providing the promotion increment does not take the employee to the new range maximum. The anniversary date shall be determined by the effective date of the promotion.

An employee who has been at the maximum for less than one year before the promotion, shall retain the anniversary date and receive, if otherwise eligible, a normal increment on his or her next anniversary date, provided the employee is not already at the maximum of the new range.

Subpart 7-3.104 Credit Toward Increments Of Employees Who Are On Leave
Without Pay

7-3.104a Subject:

This subpart will govern credit for salary increments during leave without pay.

7-3.104b Credit:

Time spent by employees on leave of absence without pay will not be included in total time of employment when calculating eligibility for annual salary increments. Eligibility for payment of the earned increment after such leave will be the 1st quarterly action date immediately following the completion of 12 months of earned time since last increment or date of hiring.

7-3.104c Exceptions:

The following exceptions will apply to the above rule:

- (1). The first 30 days of total leave without pay in an increment year
- (2). Military Leave Without Pay
- (3). Educational Leave Without Pay
- (4). Sick Leave Injury extended to Leave Without Pay
- (5). Leave Without Pay while receiving Workmen's Compensation benefits as a result of a service connected accident
- (6). Leave of Absence for Military Service in accordance with the Reserve Forces Act 1955.

7-3.104d Procedures:

A leave of absence without pay must be requested on a personnel action form (CS-21) whenever the duration of the leave exceeds a full payroll period.

An employee whose total leave of absence without pay exceeds 30 calendar days within the 12 months immediately prior to his increment due date will have his anniversary date (AD) changed on the CS-21 requesting the return from the leave which causes the employee's leave time to exceed 30 days within that 12 month period. The change, due to the duration of the leave, may cause the AD to move one, two, three or four quarters.

7-3.104d (cont'd)

For example, whenever leave time without pay:

exceeds	30 days	but is less than or equal to	120 days	move AD	1 quarter
exceeds	120 days	but is less than or equal to	210 days	move AD	2 quarters
exceeds	210 days	but is less than or equal to	300 days	move AD	3 quarters
exceeds	300 days	but is less than or equal to	390 days	move AD	4 quarters

However, if more than eleven months of active service separate the date of appointment or the date of the employee's last increment from the employee's increment due date (anniversary date), no change in the anniversary date shall be made.

Ten month employees who are on leave without pay in excess of sixty days shall have their anniversary dates moved to the next semi-annual date.

7-3.104e Limitations:

The credit determination for salary increments discussed in this subpart refers only to required work time. The additional factors normally considered in granting increments (EPEIS; recommendation of Department Head) will continue to be used.

Subpart 7-3.105 Policy For Determining Salary And Anniversary Date of An Employee Who Has Been Demoted Or Reappointed To A Title With A Lower Evaluation

7-3.105a Subject:

This subpart will deal with the procedures to be applied to determine the salary and anniversary date of an employee who has been demoted, returned to a former title, or reappointed to a title with a lower evaluation than his/her immediately previous title.

7-3.105b Application:

The salary adjustment of an employee will be based upon the procedure applicable to the category of demotion or reduction involved.

If it is:

1. A Disciplinary or Deficiency Demotion based upon unsatisfactory job performance or other deficiencies for which the employee is responsible, the salary of the employee shall be reduced by one increment* and adjusted to the same or next lower rate of the range of the title to which the employee is being reappointed. No change shall be made in the employee's anniversary date.
2. A No Fault Demotion, through no fault of the employee resulting from some action by the appointing authority, the Civil Service Commission or other agency having jurisdiction over an employee's status for reasons of economy, reduction in force, seniority layoff, in lieu of layoff etc., the salary of the employee shall be reduced by one increment* and adjusted to the same or next higher rate of the range to which the employee is reappointed. No change shall be made in the employee's anniversary date. Voluntary demotions so acknowledged in writing by the employee on the CS-21, shall be processed under this procedure.

*If the employee is being demoted to the level of his/her immediately preceding title or lower, and it can be established by the reconstruction of the employee's employment record that when the employee was promoted or appointed to the higher title he/she received the equivalent of two or more promotional increments of the lower range when going from the lower to the higher title, the salary for demotion shall first be reduced by the amount he/she received before slotting into the appropriate step of the lower salary range. This shall not apply in layoff situations.

FOOTNOTE CONTINUED:

This note shall apply only in cases where the employee is, returning to the same level he/she was promoted or advanced from. In cases where the employee is being demoted to a different level than that previously held, reconstruction shall be used. Reconstruction shall be treated as if employee were promoted to the intermediate title at the time of original promotion.

<u>Example:</u>	<u>Senior Clerk Stenographer</u>	<u>Range</u>	<u>Salary</u>	<u>AD</u>
	<u>7/1/78 promoted to Principal</u>	<u>A09</u>	<u>\$8079.12</u>	<u>10/78</u>
	<u>Clerk Steno</u>	<u>A13</u>	<u>9350.30</u>	<u>7/79</u>
	<u>Demoted 7/1/79 to Principal Clerk</u>			

Reconstruction would be:

<u>Senior Clerk Stenographer</u>	<u>A09</u>	<u>\$8079.12</u>	<u>10/78</u>
<u>7/1/78 promoted to Principal Clerk</u>	<u>A11</u>	<u>8482.64</u>	<u>10/78</u>
<u>10/78 Increment</u>		<u>8906.00</u>	<u>10/79</u>

7-3.105c

Limitations:

1. This method shall be used only when:
 - a. The employee has served more than one year in the higher title, and
 - b. The employee has previously held the lower title, or
 - (1) The lower title is a lower title in the same occupation series, or
 - (2) The service in the higher title would be considered to have provided the employee with meaningful and significant experience and training for satisfactory service in the lower title, and this is explained and certified to by the appointing authority on the C.S. 21.
2. This method shall not be used to gain a salary advantage for the employee.
3. In no case shall an employee taking a voluntary demotion receive an increase in salary rate.
4. In no case shall an employee receive a lesser salary than he/she would have received had he/she not been promoted.

7-3.105d Alternative Conditions:

In all other situations of demotion or appointment to a title with a lower evaluation not falling within the above conditions, the employee's salary in their lower title shall be arrived at by reconstructing the employee's salary based on service he/she would have had had he/she been appointed to or stayed in the lower title or in fact had been serving in the lower title on the date he/she was appointed to the higher title.

7-3.105e Rights:

For all No Fault Demotions except voluntary demotions, the employee must be given a 45 day notice of the demotion by the appointing authority.

Subpart 7-3.105 Policy For Determining Salary And Anniversary Date of An Employee Who Has Been Demoted Or Reappointed To A Title With A Lower Evaluation

7-3.105a Subject:

This subpart will deal with the procedures to be applied to determine the salary and anniversary date of an employee who has been demoted, returned to a former title, or reappointed to a title with a lower evaluation than his/her immediately previous title.

7-3.105b Application:

The salary adjustment of an employee will be based upon the procedure applicable to the category of demotion or reduction involved.

If it is:

1. A Disciplinary or Deficiency Demotion based upon unsatisfactory job performance or other deficiencies for which the employee is responsible, the salary of the employee shall be reduced by one increment* and adjusted to the same or next lower rate of the range of the title to which the employee is being reappointed. No change shall be made in the employee's anniversary date.
2. A No Fault Demotion, through no fault of the employee resulting from some action by the appointing authority, the Civil Service Commission or other agency having jurisdiction over an employee's status for reasons of economy, reduction in force, seniority layoff, in lieu of layoff etc., the salary of the employee shall be reduced by one increment* and adjusted to the same or next higher rate of the range to which the employee is reappointed. No change shall be made in the employee's anniversary date. Voluntary demotions so acknowledged in writing by the employee on the CS-21, shall be processed under this procedure.

*If the employee is being demoted to the level of his/her immediately preceding title or lower, and it can be established by the reconstruction of the employee's employment record that when the employee was promoted or appointed to the higher title he/she received the equivalent of two or more promotional increments of the lower range when going from the lower to the higher title, the salary for demotion shall first be reduced by the amount he/she received before slotting into the appropriate step of the lower salary range. This shall not apply in layoff situations.

SUPERSEDED

FOOTNOTE CONTINUED:

This note shall apply only in cases where the employee is returning to the same level he/she was promoted or advanced from. In cases where the employee is being demoted to a different level than that previously held, reconstruction shall be used. Reconstruction shall be treated as if employee were promoted to the intermediate title at the time of original promotion.

<u>Example:</u>	<u>Senior Clerk Stenographer</u>	<u>Range</u>	<u>Salary</u>	<u>AD</u>
	<u>7/1/78 promoted to Principal</u>	<u>A09</u>	<u>\$8079.12</u>	<u>10/78</u>
	<u>Clerk Steno</u>	<u>A13</u>	<u>9350.30</u>	<u>7/79</u>
	<u>Demoted 7/1/79 to Principal Clerk</u>			

Reconstruction would be:

<u>Senior Clerk Stenographer</u>	<u>A09</u>	<u>\$8079.12</u>	<u>10/78</u>
<u>7/1/78 promoted to Principal Clerk</u>	<u>A11</u>	<u>8482.64</u>	<u>10/78</u>
<u>10/78 Increment</u>		<u>8906.00</u>	<u>10/79</u>

7-3.105c

Limitations:

1. This method shall be used only when:
 - a. The employee has served more than one year in the higher title, and
 - b. The employee has previously held the lower title, or
 - (1) The lower title is a lower title in the same occupation series, or
 - (2) The service in the higher title would be considered to have provided the employee with meaningful and significant experience and training for satisfactory service in the lower title, and this is explained and certified to by the appointing authority on the C.S. 21.
2. This method shall not be used to gain a salary advantage for the employee.
3. In no case shall an employee taking a voluntary demotion receive an increase in salary rate.
4. In no case shall an employee receive a lesser salary than he/she would have received had he/she not been promoted.

7-3.105d Alternative Conditions:

In all other situations of demotion or appointment to a title with a lower evaluation not falling within the above conditions, the employee's salary in their lower title shall be arrived at by reconstructing the employee's salary based on service he/she would have had had he/she been appointed to or stayed in the lower title or in fact had been serving in the lower title on the date he/she was appointed to the higher title.

7-3.105e Rights:

For all No Fault Demotions except voluntary demotions, the employee must be given a 45 day notice of the demotion by the appointing authority.

Subpart 7-3.105 Policy For Determining Salary And Anniversary Date Of An Employee Who Has Been Demoted Or Reappointed To A Title With A Lower Evaluation

7-3.105a Subject:

This subpart will deal with the procedures to be applied to determine the salary and anniversary date of an employee who has been demoted, returned to a former title, or reappointed to a title with a lower evaluation than his immediately previous title.

7-3.105b Application:

The salary adjustment of an employee will be based upon the procedure applicable to the category of demotion or reduction involved.

If it is:

1. A Disciplinary or Deficiency Demotion based upon unsatisfactory job performance or other deficiencies for which the employee is responsible, the salary of the employee shall be reduced by one increment* and adjusted to the next lower rate of the range of the title to which the employee is being reappointed. The date of the reappointment will determine the new anniversary date. Voluntary demotions shall be processed under this procedure.

2. An Exigencies of the Service Demotion, through no fault of the employee resulting from some action by the appointing authority, the Civil Service Commission or other agency having jurisdiction over an employee's status for reasons as economy, reduction in force, seniority layoff, in lieu of layoff etc., the salary of the employee shall be reduced by one increment* and adjusted to the same or next higher rate of the range to which the employee is reappointed. No change shall be made in the employee's anniversary date.

* If it can be established by the reconstruction of the employee's employment record that when the employee was promoted or appointed to the higher title he received two or more "promotion" increments, when going from the lower to the higher title, his salary for demotion shall first be reduced by the equivalent number of increments he received or would have received before slotting into the appropriate steps of the lower salary range.

SUPERSEDED

7-3.105c Limitations:

1. This method shall be used only when:

a. The employee has served more than one year in the higher title, and

b. The employee has previously held the lower title, or

(1) The lower title is a lower title in the same occupation series, or

(2) The service in the higher title would be considered to have provided the employee with meaningful and significant experience and training for satisfactory service in the lower title.

2. This method shall not be used to gain a salary advantage for the employee.

7-3.105d Alternative Conditions:

In all other situations of demotion or appointment to a title with a lower evaluation not falling within the above conditions, the employee's salary in the lower title shall be arrived at by reconstructing the employee's salary based on service he would have had had he been appointed to or stayed in the lower title or in fact had been serving in the lower title on the date he was appointed to the higher title.

7-3.105e Rights:

For all Exigencies of the Service demotions, the employee must be given a 45 day notice of the demotion by the appointing authority.

Subpart 7-3.106 Policy For Determining Salary And Anniversary Date Of An Employee Affected By Reassignment Of An Individual Title To A New Salary Range As A Result Of Reevaluation

7-3.106a Subject:

This subpart will deal with the method of adjusting the salary of employees when the title in which they are employed is reassigned to a higher or lower salary range which is not a result of or affected by a change in work hours.

7-3.106b Application:

1. For upward range revisions:

a. When a title is reassigned to a higher salary range, the employee shall receive a salary adjustment that provides an increase in pay of at least one increment of the present range plus the amount (if necessary) to adjust his salary to the next higher step of the new range (equalization).

Example: An employee in step 4 of Range A09 (\$5830-\$7874) receives an upward range reassignment to Range A12 (\$6749-\$9108).

Step 4 Range A09 = \$6706
Add Increment of Range A09 = \$6998
Equalization Range A12 = Step 2 \$7086
Anniversary date remains the same

b. (1) When the total pay adjustment is less than two increments of the range from which the title is advanced, an employee shall retain his anniversary date.

(2) When the total amount of pay adjustment is equal to or greater than two increments of the range from which a title is advanced, an employee shall be assigned a new anniversary date on the basis of the effective date of the salary increase.

c. When an employee at the maximum has been at the maximum for at least one year he shall receive, if otherwise eligible, a performance increment in addition to the increment due him by reason of the range revision, providing he is not already at the maximum of the new range. The anniversary date shall be determined by the effective date of the salary adjustment.

An employee who has been at the maximum for less than one year before the range revision shall retain his anniversary date and receive, if otherwise eligible, a performance increment on his anniversary date, providing he is not already at the maximum of the new range.

7-3.106b (cont'd)

Example (c): An employee at the maximum of Range A09 (\$5830-\$7874) for two years receives an upward range reassignment to Range A12 (\$6749-\$9108).

Maximum Range A09 = \$7874
Add Increment of Range A09 = \$8166
Equalization into Range A12 = Step 6 \$8434
Performance Increment = Step 7 \$8771
New Anniversary Date based on effective date of Salary Adjustment

2. For downward range revisions:

a. The effective date of a downward range reassignment shall be the beginning of the payroll period that is at least 60 days after the date of the Civil Service Commission meeting at which the action was taken.

b. All employees affected by the downward range reassignment shall receive notice of the reduction in range 45 days prior to the effective date.

c. When a title is reassigned to a lower salary range the employee(s) shall remain at his current salary rate, without change in anniversary date, until future within grade adjustments, upward range revisions, or other adjustments arising out of salary programs, will entitle him to a rate of pay that is equivalent to his current rate of pay, or the next higher rate of pay within the lower salary range.

That part of his retained current salary that is above the nearest lower step in the lower range will be carried as extra salary until slotting into range at a step is possible. Those retained rates that are above the maximum of the lower salary range will be considered as "Red Circled Rates".

Example: An employee in step 4 of Range A12 (\$6749-\$9108) AD 4/73 receives a downward range revision to Range A11 (\$6428-\$8675) effective February 3, 1973.

Step 4 Range A12 = \$7660
February 3, 1973, salary remains at \$7660 between steps 5 and 6 of range A11

March 31, 1973 adjusts to sixth step \$8033 AD 7/74

7-3.106c Limitations:

This policy will have general application for salary adjustments as a result of reassignment of an individual title to a new salary range and shall not be used as a method to achieve salary increases. This subpart is superseded by specific situations or programs which come under the Joint Regulations of the President of the Civil Service Commission, the State Treasurer, and the Director of the Division of Budget and Accounting in the Department of the Treasury.

Subpart 7-3.107 Pay Adjustment For Lateral Title Change

7-3.107a Subject:

This subpart will deal with the procedure to be followed when a lateral reclassification or lateral change in title occurs when different work weeks are involved.

7-3.107b Application:

When an employee changes titles having different work weeks and different salary ranges, where both class titles have job evaluations that are within the range of evaluation points that convert to the same salary range before adjustment for work week, such change shall constitute a lateral change in title. An employee affected by such lateral title change shall not be considered to have been promoted or demoted, any salary differentials notwithstanding.

Employees effecting such changes in title shall have their rates of pay adjusted to the same step in the salary range of the new title as that step at which they were in the range of the former title. The anniversary date shall not be changed.

Subpart 7-3.108 Determination of Salary And Anniversary Dates of Employees
 Moving From 10 Month To 12 Month Positions And From 12
 Month To 10 Month Positions

7-3.108a Subject:

This subpart will deal with the determination of the type action and the appropriate salary adjustment for employees who move from a 10 month to a 12 month classification or vice versa.

7-3.108b Application:

1. When an employee moves from a 10 month position to a 12 month position (same or different title with the same hour week*), or vice versa, the procedure for pay adjustment shall be based on the policy that all titles are evaluated on the basis of 12 months and that 10 month class titles are three ranges lower than the evaluated titles.

2. When an employee moves from a 10 month position to a 12 month position the following policy shall determine what procedure shall be used in making a pay adjustment:

(a) When the 12 month position is compensated three ranges higher than the 10 month position, lateral transfer procedures shall be used.

(b) When the 12 month position is compensated more than three ranges above the 10 month position, promotion procedures shall be used.

(c) When the 12 month position is compensated less than three ranges above the 10 month position, appropriate demotion procedures shall be used.

3. When an employee moves from a 12 month position to a 10 month position the following policy shall determine what procedure shall be used in making a pay adjustment:

(a) When the 10 month position is compensated three ranges lower than the 12 month position, lateral transfer procedures shall be used.

(b) When the 10 month position is compensated more than three ranges below the 12 month position, appropriate demotion procedures shall be used.

*If the two positions have different hour weeks the hour week of the employee's current position shall first be equalized to that of the position to which the employee will be appointed - as stipulated in CSPM 7-3.109 - prior to the adherence to the following procedures.

7-3.108B (cont'd)

(c) When the 10 month position is compensated less than three ranges below the 12 month position, promotion procedures shall be used.

4. Anniversary Dates (AD)

(a) Changes in anniversary dates for movement from 10 to 12 month positions or vice versa to adjust for work year shall be:

1. From 10 to 12 month positions

- a. AD2 changes to AD4
- b. AD9 changes to AD10

2. From 12 to 10 month positions

- a. AD1 changes to AD2
- b. AD4 changes to AD9
- c. AD7 changes to AD9
- d. AD10 changes to AD2

(b) If the employee receives an increase of more than two increments after adjustment for change in work year, the employee's AD shall be advanced one full year based on the effective date of the action.

Example:

In December of 1976 an AD2/77 employee after adjustment for change in work year due to the move to a 12 month position, receives more than two increments of the range to which he is thus adjusted, his AD is changed to AD 4/77 to adjust for the change of work year and advanced to AD 4/78 due to the pay increase of more than two increments.

(c) If the employee receives a demotion due to the adjustment for change in work year, the employee's anniversary date shall be adjusted for change of work year as in (a) above and further adjusted as stipulated in Subpart 7-3.105.

Subpart 7-3.108 Determination Of Salary And Anniversary Dates Of Employees
Moving From 10 Month To 12 Month Positions And From 12 To
10 Month Positions

7-3.108a Subject:

This subpart will deal with the determination of the type action and the appropriate salary adjustment for employees who move from a 10 month to a 12 month classification or vice versa.

7-3.108b Application:

1. When an employee moves from a 10 month position to a 12 month position (same or different title), or vice versa, the procedure for pay adjustment shall be based on the policy that all titles are evaluated on the basis of 12 months and that 10 month class titles are three ranges lower than the evaluated titles.

2. When an employee moves from a 10 month position to a 12 month position the following policy shall determine what procedure shall be used in making a pay adjustment:

(a) When the 12 month position is compensated three ranges higher than the 10 month position, lateral transfer procedures shall be used.

(b) When the 12 month position is compensated more than three ranges above the 10 month position, promotion procedures shall be used.

(c) When the 12 month position is compensated less than three ranges above the 10 month position, appropriate demotion procedures shall be used.

3. When an employee moves from a 12 month position to a 10 month position the following policy shall determine what procedure shall be used in making a pay adjustment:

(a) When the 10 month position is compensated three ranges lower than the 12 month position, lateral transfer procedures shall be used.

(b) When the 10 month position is compensated more than three ranges below the 12 month position, appropriate demotion procedures shall be used.

(c) When the 10 month position is compensated less than three ranges below the 12 month position, promotion procedures shall be used.