

Retention of provisional employees in excess of time permitted. *Handabaka v. Division of Consumer Affairs*, 167 N.J.Super. 12, 400 A.2d 490 (App.Div.1979).

Decision to fill positions provisionally is not a mandatorily negotiable item. *State v. State Supervisory Employees Association*, 78 N.J. 54, 393 A.2d 233 (1978).

Provisional employment for eight to ten years prior to examination being held. *Omrod v. N.J. Department of Civil Service*, 151 N.J.Super. 54, 376 A.2d 554 (App.Div.1977) certification denied 384 A.2d 513.

Police officers dismissed after failure to take exam; validity. *De Larmi v. Borough of Fort Lee*, 132 N.J.Super. 501, 334 A.2d 349 (App.Div.1975) certification denied 68 N.J. 135, 343 A.2d 423.

Jurisdiction: PERC does not have authority to hear and decide unfair labor practice charges and to issue various types of affirmative remediate orders respecting them (citing former N.J.A.C. 4:6.8). *Burlington Co. Evergreen Park Mental Hospital v. Cooper*, 56 N.J. 579, 267 A.2d 533 (1970).

4A:4-1.6 Interim appointments

(a) When an appointing authority makes an appointment to a specific position in State service or a specific title in local service, an interim appointment shall be made where the position/title is held by a permanent employee who:

1. Is on a leave of absence;
2. Is on indefinite suspension; or
3. Has been removed or demoted for disciplinary reasons and is awaiting final administrative action by the Merit System Board on appeal.

(b) When an appointing authority does not make an appointment in the situations listed in (a) above, the appointing authority shall reserve a position/title for the absent employee as a vacant position/title.

(c) Any interim appointment shall remain in effect only during the period of time that the permanent employee is on an approved leave of absence, on indefinite suspension or awaiting final administrative action of the Merit System Board on the appeal of a disciplinary demotion or removal.

1. At the end of the interim appointment, the appointee shall return to his or her permanent title.

(d) An interim appointee shall possess the minimum qualifications for the title.

(e) If a complete eligible list exists for the title, the interim appointment shall be made from that list. An interim appointee's name shall remain on the eligible list for consideration for permanent employment.

(f) An interim appointee shall continue to accrue seniority in his or her permanent title.

(g) The layoff rights of an interim appointee shall be determined from his or her permanent title. See N.J.A.C. 4A:8-2.

(h) The appointing authority shall advise interim appointees of their rights under an interim appointment. See N.J.A.C. 4A:4-4.7 for effect on permanent appointment rights.

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

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

Revised text.

4A:4-1.7 Temporary appointments

(a) The Commissioner may approve temporary appointments to positions in which the job assignment is for an aggregate period of not more than six months in a 12-month period. A temporary appointment for a maximum of 12 months may be approved by the Commissioner to a position established as a result of a short-term grant.

(b) A temporary appointee shall meet the minimum qualifications for the title.

(c) See N.J.A.C. 4A:4-4.7 for effect on permanent appointment rights.

(d) Consecutive temporary appointments in excess of the periods set forth in (a) above are prohibited.

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

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

Revised (c) and added (d).

Case Notes

A person who does not possess the minimum qualifications may not receive a provisional appointment (citing former N.J.A.C. 4:1-14.2). *Gloucester Cty. Wel. Bd. v. New Jersey Civil Service Comm'n*, 93 N.J. 384, 461 A.2d 575 (App.Div.1983).

Effect of federal funding of local civil servants on question of temporary permanent appointments. In re Hudson Cty. Probation Dep't., 178 N.J.Super. 362, 429 A.2d 368 (App.Div.1981).

Entitlement of temporary employees to positions following board establishment of eligible list. *Local 866 v. Board of Education*, 149 N.J.Super. 147, 373 A.2d 435 (Chanc.Div.1977).

4A:4-1.8 Emergency appointments

The Commissioner may authorize an emergency appointment for a period not to exceed 30 days when the appointing authority certifies that the failure to make such appointment will result in harm to persons or property.

4A:4-1.9 Return of employees to their permanent titles

(a) An employee with permanent status in a career service title, who is returned during or at the end of the working test period in another title, or from an appointment under N.J.A.C. 4A:4-1.3, 1.4, 1.5, 1.6, 1.7 or 1.8, to his or her permanent title, will have rights to a position in the permanent title in the same organizational unit.

1. The employee must have held the permanent title within current continuous service.

2. In State service, an organizational unit shall mean an appointing authority. In local service, an organization-

al unit shall mean a department or separate agency within the same governmental jurisdiction. A school district shall be considered a separate jurisdiction.

(b) The appointing authority shall use the following procedures, to effect the return of the permanent employee:

1. Reassign the employee to a vacant position/title;
2. Separate a provisional employee with no permanent status and reassign the returning employee to the position/title; or
3. Return an employee serving provisionally in the permanent title of the returning employee to his or her permanent title and reassign the returning employee to the position/title.

(c) The appointing authority and the returning employee may agree to use the following optional procedures to effect the return of the permanent employee.

1. The employee may accept appointment to other titles at the same or lower level, in the same or a different series for which the employee qualifies in the same or another organizational unit.
2. The status and compensation rights of the returning employee shall be determined in accordance with normal merit system rules and policies.

(d) When the appointing authority offers the employee options under (b) and (c) above, the employee may choose to accept either option.

(e) If the appointing authority offers only an option under (b) above, the employee must accept the option offered.

(f) Layoff procedures must be utilized when the appointing authority cannot effect the return of a permanent employee under (b) or (c) above. See N.J.A.C. 4A:4-4.8(d) on certification procedures.

Case Notes

Employee no longer eligible for promoted position reverts to former position (citing former N.J.A.C. 4:3-8.3). In the Matter of Williams, 198 N.J.Super. 75, 486 A.2d 858 (App.Div.1984).

Return to position of corrections sergeant at end of working test period was appropriate. Heaney v. Mahon Correctional Facility, 93 N.J.A.R.2d (CSV) 529.

Employee returned to her former position at end of working test period. Durmer v. Ocean County Board of Social Services, 93 N.J.A.R.2d (CSV) 242.

Return to former position at end of working test period was justified. Arroyo v. Department of Corrections, 93 N.J.A.R.2d (CSV) 3.

4A:4-1.10 Approval of appointments by Department of Personnel

(a) All initial and subsequent appointments, promotions, and related personnel actions are subject to the review and approval of the Department of Personnel.

1. The Commissioner may direct personnel action freezes in connection with layoffs or other emergent circumstances.

(b) Following submission and review of personnel actions, the appointing authority shall be notified by the Department of Personnel whether the action has been approved or disapproved and the reasons for any disapproval. The appointing authority shall provide written notice to all affected employees of such personnel actions.

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

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

Revised (a).

Amended by R.1994 d.619, effective December 19, 1994.

See: 26 N.J.R. 3510(a), 26 N.J.R. 5002(a).

4A:4-1.11 (Reserved)

New Rule, R.1990 d.48, effective January 16, 1990.

See: 21 N.J.R. 3337(a), 22 N.J.R. 166(b).

Repealed by R.1996 d.97, effective February 20, 1996.

See: 27 N.J.R. 4048(a), 28 N.J.R. 1201(a).

Section was "Vacancy Review Board: State service".

SUBCHAPTER 2. COMPETITIVE EXAMINATIONS

4A:4-2.1 Announcements and applications

(a) Notice of open competitive examinations shall be announced in a monthly job listing or by other appropriate means as approved by the Commissioner to secure sufficient qualified candidates. Copies of notices for all open competitive examinations shall be available in each regional office of the Department of Personnel.

(b) In order to notify all employees of promotional opportunities, notices of promotional examinations and applications shall be provided to eligible employees by the Department of Personnel or as directed by the Department of Personnel through the appointing authority. The appointing authority shall conspicuously post notices at all geographic locations within the unit scope to which the examination is open. Appointing authorities shall maintain a record of such posting.

(c) Examination announcements shall include at least the following information:

1. Title of the examination;
2. Salary information;