

### CHAPTER 3

#### CLASSIFICATION, SERVICES AND COMPENSATION

##### Authority

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

##### Source and Effective Date

R.2004 d.242, effective June 4, 2004.  
See: 36 N.J.R. 909(a), 36 N.J.R. 3267(a).

##### Chapter Expiration Date

Chapter 3, Classification, Services and Compensation, expires on  
June 4, 2009.

##### Chapter Historical Note

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 See, also, Historical Notes and annotations at repealed  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27; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 6, 7,  
and 27; and repealed N.J.A.C. 4:3, Local Service, specifically Subchap-  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

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

Pursuant to Executive Order No. 66(1978), Chapter 3, Classification,  
Services and Compensation, was readopted as R.1999 d.60, effective  
January 28, 1999. See: 30 N.J.R. 4346(a), 31 N.J.R. 638(a).

Chapter 3, Classification, Services and Compensation, was readopted  
as R.2004 d.242, effective June 4, 2004. See: Source and Effective  
Date.

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

##### SUBCHAPTER 1. CAREER AND UNCLASSIFIED SERVICES

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

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

those positions in State service allocated by the Board to the Senior Executive Service as provided in N.J.A.C. 4A:3-2.

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

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

#### Case Notes

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

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

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

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

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

1. Competitive testing is not practicable due to the nature of the knowledge, skills and abilities associated with the job;

2. Certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems and working conditions; or

3. There is a need for immediate appointments arising from a new legislative program or major agency reorganization.

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

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

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

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

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

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

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

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

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

#### Case Notes

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

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

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

1. In State service, the title is so designated under N.J.S.A. 11A:3-4;

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

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

#### Case Notes

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

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

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

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

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

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

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

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

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

(f) In State service, the agency representative shall provide notice to affected and potentially affected negotiations

representatives upon submission of the following to the Department of Personnel. The Department of Personnel shall verify that proper notice has been given of each of the following:

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

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

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

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

#### Case Notes

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

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

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

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

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

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

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

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

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

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

#### Case Notes

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

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

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

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

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

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

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

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

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

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

1. In State service:

i. The beginning of the pay period immediately after 14 days from the date the Department of Personnel receives the new title request and all requested information;

ii. The date of appointment to the Tentative Title; or

iii. An appropriate date as established by the Commissioner when a classification review has been initiated by the Department of Personnel; or

2. In local service, an appropriate date as established by the Commissioner.

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

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

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

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

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

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

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

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

(d) Advancement to the lowest title in the related title series, referred to in this section as the primary title, shall take place only upon successful completion of the training period. The length of the training period shall be designat-

ed in the specification for the particular trainee title. The designated length shall not be longer than 12 months, unless otherwise provided by law. The training period must be continuous, except if interrupted by leave or layoff from the trainee title, and may include provisional service in the trainee or higher related title.

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

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

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

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

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

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

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

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

(a) In State service and in local service upon approval of the Commissioner of Personnel, the designation "intermittent" shall be used for those titles in the career service where work responsibilities are characterized by unpredictable work schedules and which do not meet the normal criteria for regular, year-round, full-time or part-time assign-

ments. State employees who hold full-time primary employment in State service are not eligible to serve in an intermittent title.

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

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

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

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

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

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

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

(c) Records for intermittent employees, including hours worked, recall lists, telephone contact lists and benefit time accumulation, shall be maintained by the appointing authority in a manner acceptable to, and subject to audit by, the Department of Personnel. If the Department's audit of a title demonstrates that the intermittent designation is inappropriate, the Department shall convert the title to a regular, year-round, full-time or part-time career service title. An incumbent in the converted title shall receive a provisional appointment to the title, subject to competitive testing and certification procedures. See N.J.A.C. 4A:4.

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

(e) In local service, an appointing authority may request that the Commissioner establish intermittent titles.

1. The local appointing authority shall submit to the Commissioner a proposal, which shall specify:

- i. A list of proposed intermittent titles;
- ii. The prorated amounts of paid leave time;
- iii. The prorated length of the working test period for employees serving in such titles; and
- iv. A compensation plan which shall identify the per diem or hourly rates for all intermittent titles.

2. The local appointing authority shall not make intermittent appointments unless the intermittent titles have been approved by the Commissioner. Such appointments shall be made in accordance with procedures on appointments made to career service positions within the non-competitive division. See N.J.A.C. 4A:3-1.2.

3. The local appointing authority shall retain all records concerning intermittent employment, subject to Department of Personnel audit, and submit to the Department on an annual basis a report identifying all intermittent appointments made during the year, the intermittent employees' length of employment and the titles utilized for these intermittent appointments.

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

#### LEAVE ENTITLEMENTS—INTERMITTENT EMPLOYEES (STATE SERVICE)

##### VACATION LEAVE

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

##### SICK LEAVE

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

##### ADMINISTRATIVE LEAVE

<b>Workweek</b> 40, 4E and N4 hour titles	½ day (4 hours) for each 174 hours in regular pay status to a maximum of 3 days (24 hours) in any calendar year.
NL, NE, 35 and 3E hour titles	½ day (3½ hours) for each 152 hours in regular pay status to a maximum of 3 days (21 hours) in any calendar year.

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

In (e): revised text by adding chart indicating amounts of leave time to which intermittent employees are entitled.

Amended by R.1998 d56, effective January 20, 1998.  
See: 29 N.J.R. 4363(a), 30 N.J.R. 382(b).

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

Amended by R.2000 d.258, effective June 19, 2000.

See: 32 N.J.R. 1111(a), 32 N.J.R. 2228(a).

In (a), inserted "and in local service upon approval of the Commissioner of Personnel," following "service" in the first sentence, and substituted a reference to State employees for a reference to employees; in (b), substituted "In State service," for "Intermittent" at the beginning of the introductory paragraph; in (c), added the second through fourth sentences; in (d), added "in State service" at the end; inserted a new (e); recodified former (e) as (f), and inserted "in State service" throughout; and added a reference to State service in the title of the chart.