

(e) With the Commissioner's approval, this section may also apply to employees with permanent status in titles in the non-competitive division who take a voluntary demotion to a title in the competitive division of the career service.

(f) When an employee is returned to his or her prior permanent title after a voluntary demotion, seniority in the prior permanent title shall be aggregated when:

1. The demotion was necessary due to the temporary loss of licensure required to perform the duties of the position;
2. The demotion was agreed to by both the employee and the appointing authority; and
3. The demotion was for a set period of time up to a maximum of one year.

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

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

Revised (b) and added (b)1; revised (c)1.

Amended by R.1994 d.74, effective February 7, 1994.

See: 25 N.J.R. 4823(b), 26 N.J.R. 795(a).

Amended by R.1996 d.259, effective June 3, 1996.

See: 28 N.J.R. 1334(a), 28 N.J.R. 2839(a).

Added (c)2.

Case Notes

Position and salary reduced; bad faith. *Morello v. Township of Belleville*, 94 N.J.A.R.2d (CSV) 606.

Demotion of personnel for reasons of economy was warranted. *Mihlebach v. New Jersey Department of Human Services*, 92 N.J.A.R.2d (CSV) 443.

Rescission of voluntary demotion after the demotion had been effectuated. *Loatman v. Cumberland County*, 92 N.J.A.R.2d (CSV) 262.

4A:4-7.9 Resignation/new appointment

(a) A permanent employee who is appointed from an open competitive list to a title in a different organizational unit within the same governmental jurisdiction shall be considered to have resigned from the previous permanent title.

1. Accumulated service for purposes of promotional eligibility and scoring, determining sick and vacation leave entitlements and seniority in layoffs, and in State service only, administrative leave entitlements, shall be retained.

2. See N.J.A.C. 4A:3-4.4(b) for salary placement in State service.

(b) The employee may request placement on the regular reemployment list for the previous title.

(c) The new appointing authority shall inform the employee of his or her effective resignation of permanent status prior to the employee's new appointment.

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

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

Added new (c).

Amended by R.2009 d.95, effective March 16, 2009.

See: 40 N.J.R. 5891(a), 41 N.J.R. 1206(a).

Rewrote (a)1.

4A:4-7.10 Regular reemployment

(a) A permanent employee who has resigned in good standing, received a general resignation, retired or voluntarily demoted, may request consideration for reemployment by indicating availability to his or her appointing authority.

(b) Upon recommendation of the appointing authority that such reemployment is in the best interest of the service, the Chair/CEO of the Civil Service Commission shall place the employee's name on a reemployment list. A regular reemployment list shall be subject to certification to all appointing authorities in a jurisdiction.

(c) Police and fire reemployment lists shall have unlimited durations. Regular reemployment lists for all other titles shall have durations of three years from the date of resignation, retirement or voluntary demotion, unless the list is extended pursuant to N.J.A.C. 4A:4-3.3(a)1.

1. Requests for reemployment must be submitted within the duration of the applicable list.

(d) Seniority commences as of the date of regular reemployment.

Amended by R.1992 d.338, effective September 8, 1992.

See: 24 N.J.R. 2107(a), 24 N.J.R. 3091(b).

Deleted (b); redesignated existing (c) as (b) without changes.

Petition for Rulemaking.

See: 26 N.J.R. 2148(a).

Amended by R.1995 d. 418, effective August 7, 1995.

See: 27 N.J.R. 1839(a), 27 N.J.R. 2885(b).

Redesignated former (a) as (a) and (b), in (b) substituted the Department of Personnel for the employee as the party responsible for adding the employee's name to a reemployment list, added (c), and redesignated former (b) as (d).

Amended by R.1997 d.195, effective May 19, 1997.

See: 28 N.J.R. 4980(a), 29 N.J.R. 2266(b).

In (b), added the last sentence.

Administrative correction.

See: 34 N.J.R. 2781(b).

Amended by R.2010 d.222, effective October 18, 2010.

See: 42 N.J.R. 1277(a), 42 N.J.R. 2399(a).

In (a), inserted "received a general resignation,"; and in (b), substituted "Chair/CEO of the Civil Service Commission" for "Department of Personnel".

Law Review and Journal Commentaries

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

Case Notes

Police sergeant's right to cancel his retirement under pension regulations does not entitle him to immediate reemployment, which, instead, is controlled by priorities promulgated by civil service laws and regulations. Therefore, a trial court erred in granting the sergeant partial summary judgment in his suit asserting damages for a city's refusal to rehire him after he cancelled his retirement and sought reemployment in his former position, which had already been filled by the city. *Klawitter v. City of Trenton*, 395 N.J. Super. 302, 928 A.2d 900, 2007 N.J. Super. LEXIS 280 (App.Div. 2007).

Aggregation of seniority complies with legislative mandate that disabled employees return to former position upon cessation of disability. *Matter of Allen*, 262 N.J. Super. 438, 621 A.2d 87 (A.D.1993).

Police officer who accepted lower position but sought former position after he overcame disability did not waive rights and was not barred by estoppel or laches. Matter of Allen, 262 N.J.Super. 438, 621 A.2d 87 (A.D.1993).

4A:4-7.11 Transfer or combining of functions

(a) When any of the functions of a department, agency or unit of a political subdivision operating under Title 11A, New Jersey Statutes, are transferred, consolidated, unified, absorbed or combined with those of the State or of a separate political subdivision operating under Title 11A, New Jersey Statutes, the Department of Personnel upon request of both appointing authorities shall approve the transfer of some or all affected employees to the receiving unit.

(b) Any employee so transferred who holds permanent or probationary status in a title in the career service shall continue to hold such status in the receiving unit.

(c) Seniority calculations and leave entitlements for transferred permanent or probationary employees shall be calculated as if the entire period of service was in the receiving unit.

(d) If positions are abolished because they are made no longer necessary by the consolidation of functions, affected

employees shall be accorded all layoff and special reemployment rights in N.J.A.C. 4A:8.

New Rule, R.1992 d.419, effective October 19, 1992.
See: 24 N.J.R. 2494(a), 24 N.J.R. 3718(a).

4A:4-7.12 Reinstatement following disability retirement

(a) A permanent employee who has been placed on disability retirement may be reinstated following a determination from the Division of Pensions that the retiree is no longer disabled.

(b) The employee's reinstatement shall have priority over appointment from any eligible list, except a special reemployment list.

(c) Seniority for an employee who is reinstated following a period of disability retirement shall be the aggregate of permanent service in the employee's permanent title prior to retirement and following reinstatement. Seniority shall not be granted for the period of retirement.

New Rule, R.1992 d.338, effective September 8, 1992.
See: 24 N.J.R. 2107(a), 24 N.J.R. 3091(b).

Cross References

Priority of eligible lists, see N.J.A.C. 4A:4-3.7.