

(d) When a promotional examination is announced, an open competitive examination may also be announced.

Amended by R.1989 d.569, effective November 6, 1989.
See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

In (b)2i: added text, "Former Municipal Police Officers ... the closing date."

Amended by R.1997 d.482, effective November 17, 1997.

See: 29 N.J.R. 3385(a), 29 N.J.R. 4864(b).

Inserted new (c); and recodified (c) as (d).

Amended by R.1998 d.291, effective June 1, 1998.

See: 30 N.J.R. 890(a), 30 N.J.R. 1975(a).

In (b)2, inserted references to State troopers, sheriff's officers, sheriff's deputies and County Municipal police Officers in i, added a new ii and recodified former ii as iii.

Law Review and Journal Commentaries

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

Case Notes

Limiting open competitive examination to residents for position of police chief, violated the Civil Service Act, the Board's own regulations, and the rule-making provisions of the Administrative Procedure Act. Matter of Police Chief (M2010P) South Orange Village, 266 N.J.Super. 101, 628 A.2d 809 (A.D.1993).

Equitable estoppel: provisional employee worked 8-10 years before test was promulgated. Omrod v. N.J. Department of Civil Service, 151 N.J.Super. 54, 376 A.2d 554 (App.Div.1977) certification denied 75 N.J. 534, 384 A.2d 513.

Issue of examination as artificial barrier to employment. DeLarmi v. Borough of Fort Lee, 132 N.J.Super. 501, 334 A.2d 349 (App.Div.1975) certiorari denied 68 N.J. 135, 343 A.2d 423.

Requirement that employee serve specified time in lower classification before becoming eligible for promotion upheld (citing former N.J.A.C. 4:1-8.6). Watson v. Farrell, 116 N.J.Super. 434, 282 A.2d 756 (App.Div.1977).

Patient care worker was properly removed from her position for cursing at and prodding patient. Richardson v. North Princeton Development Center, 96 N.J.A.R.2d (CSV) 507.

Testimony of mentally disturbed witness with history of lying was insufficient to support charges of employee misconduct. Dickerson v. North Princeton Development Center, 96 N.J.A.R.2d (CSV) 504.

Laborer's gambling activities did not "involve or touch on" his employment so as to require forfeiture of his position. Tudda v. Department of Public Works of the Borough of West Paterson, 96 N.J.A.R.2d (CSV) 499.

Alcoholic police officer's conduct warranted six-month suspension. Arose v. Township of Little Egg Harbor Police Department, 96 N.J.A.R.2d (CSV) 490.

Four-week suspension for sanitation worker's refusal to work second route on holiday was excessive. Carrico v. Woodbridge Township, Department of Public Works, 96 N.J.A.R.2d (CSV) 483.

4A:4-2.4 Promotional title scope: local service

(a) If a title which is the subject of a promotional examination is part of a title series, then the examination shall be open to one of the following:

1. The next lower or next two lower in-series titles; or
2. All applicants in the unit scope who meet the open competitive requirements and all applicants in the next lower or next two lower in-series titles.

(b) The title scope described in (a)2 above may be used when the appointing authority requests a wider title scope or provisionally promotes an employee who does not have permanent status in an in-series title.

(c) When the title which is the subject of the promotional examination is not part of a title series, the examination shall be open to all applicants having a total of one year permanent service who meet the open competitive requirements.

(d) When a promotion is to be made from the noncompetitive division of the career service to a related entry level title in the competitive division of the career service, the examination shall be open to all applicants who meet the complete open competitive requirements and who are either:

1. Serving in the next lower or next two lower in-series noncompetitive titles or in any competitive title; or
2. Serving in all related noncompetitive titles or in any competitive title.

(e) In extraordinary circumstances, the Commissioner may set another appropriate title scope.

Amended by R.1990 d.554, effective November 19, 1990.

See: 22 N.J.R. 2628(a), 22 N.J.R. 3482(a).

Conforms the requirements for local with those in State service.

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

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

Revised (d)1 and 2.

Law Review and Journal Commentaries

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

Case Notes

Merit Systems Board's approval of open competitive examination was violation of Civil Service Act, the Board's own regulations, and the rule-making provisions of the Administrative Procedure Act. Matter of Police Chief (M2010P) South Orange Village, 266 N.J.Super. 101, 628 A.2d 809 (A.D.1993).

New Jersey State Library

4A:4-2.5 Promotional title scope: State service

(a) For the purpose of announcing promotional examinations, all titles will be divided into one of the following categories:

1. Professional, which requires a Bachelor's or higher level degree, with or without a clause to substitute experience for education;
2. Para-professional, which requires at least 60 general college credits or 12 or more specific college credits (but less than a full degree), with or without a clause to substitute experience for education; or
3. Non-professional, which requires less than 60 general college credits or less than 12 specific college credits.

(b) When a promotion is within the same category as listed in (a) above, the examination, with or without all or part of the open competitive requirements, as appropriate, shall be open to permanent competitive division employees serving in one of the following:

1. The next lower or next two lower in-series titles. See N.J.A.C. 4A:1-1.3 for definition of title series.
2. The next lower in-series title, if one exists, and all other competitive division titles at specified class code levels below the promotional title. See N.J.A.C. 4A:1-1.3 for definition of class code.
3. The next lower in-series title, if one exists, and all other permanent competitive division employees who meet the complete open competitive requirements.
4. To related titles, pursuant to an established plan approved by the Commissioner.
5. In extraordinary circumstances, the Commissioner may set another appropriate title scope.

(c) When a promotion is between categories as listed in (a) above, the examination shall be open to permanent competitive division employees currently serving in the announced unit scope and who meet one of the following criteria:

1. All applicants who meet the complete open competitive requirements;
2. All applicants who are permanent in a bridge title or titles approved by the Commissioner and who meet the complete open competitive requirements. A bridge title is one which is recognized by the Department of Personnel as related to a higher category title in terms of work performed and knowledge, skills and abilities required;
3. All titles that are in the same category as the announced title and that are in specified class codes below the announced title, including the next lower in-series title if one exists, with or without all or part of the open competitive requirements, as appropriate, and all applicants as described in (c)2 above; or

4. In extraordinary circumstances, the Commissioner may set another appropriate title scope.

(d) When a promotion is to be made from the noncompetitive division to a related title in the competitive division, the examination shall be open to all permanent employees who meet one of the following:

1. Serving in the next lower or next two lower in-series noncompetitive titles and possessing the complete open competitive requirements;
2. Serving in all related noncompetitive titles and possessing the complete open competitive requirements;
3. All competitive division titles at specified class code levels below the announced title, with or without all or part of the open competitive requirements, and all titles as described in (d)1 or 2 above;
4. Competitive division employees who meet complete open competitive requirements and all titles as described in (d)1 or 2 above; or
5. In extraordinary circumstances, the Commissioner may set another appropriate title scope.

(e) The movement of a permanent employee in the non-competitive division to a related title in the same category and with the same class code in the competitive division shall be considered a promotion for purposes of this subchapter. The title scope of the examination shall be established as set forth in (d) above.

Correction: Subsection (c) cross-reference should be (a) instead of (b).

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:4-2.6 Eligibility for promotional examination

(a) Applicants for promotional examinations shall meet all of the following criteria by the announced closing date:

1. Have one year of continuous permanent service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open. Aggregate service shall be calculated in the same manner as seniority as set forth in N.J.A.C. 4A:4-2.15.
2. Be currently serving in the announced unit scope in a title to which the examination is open and meet all other requirements contained in the announcement. If an examination announcement is amended, all requirements must be met by the announced closing date whether or not the application filing date is changed;
3. Have not received a Performance Assessment Review (PAR) final rating of a Four, Marginally Below Standards, or Five, Significantly Below Standards (or equivalent in an approved local service evaluation program) in each of the two rating periods immediately preceding the announced closing date; and

4. File an application on or before the application filing date.

(b) In local service, applicants for promotion from entry level law enforcement or firefighter titles shall have three years of continuous permanent service in a title to which the examination is open, except as otherwise provided by law.

(c) Except when permitted by the Merit System Board for good cause, such as a documented affirmative action basis, applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process. The Department of Personnel may recommend to the Board good cause situations where out-of-title work should be accepted.

(d) Employees who have accepted a voluntary demotion to or are appointed from a special reemployment list to a title to which the examination is open, may, in order to satisfy the requirement of (a)1 above, include continuous permanent service in any higher related or comparable title.

(e) An employee who has established eligibility for a promotional examination with a closing date earlier than the effective date of a layoff shall be permitted to take such examination.

(f) Employees who are separated or displaced as a result of layoff and who subsequently return to a title and unit scope to which a promotional examination is open between the filing deadline and the examination date, shall be allowed to file for the examination.

(g) The time requirements specified in (a) and (b) above may be reduced to completion of the working test period if:

1. There is currently an incomplete promotional list and/or the number of employees eligible for examination will result in an incomplete list;

2. It appears that vacancies to be filled within the duration of the promotional list will exceed the maximum number of eligibles that could result from examination; or

3. Other valid reasons as determined by the Commissioner.

Amended by R.1993 d.45, effective January 19, 1993.
See: 24 N.J.R. 3589(a), 25 N.J.R. 291(a).

Redesignated existing (a)3 as (a)4; added new (a)3.

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)1 and 2; revised (f).

Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking.

See: 29 N.J.R. 810(a), 29 N.J.R. 1568(b).

Case Notes

Consideration of prior service in determining continuous service requirements for examination. *Makowitz v. Civil Service Dep't*, 177 N.J.Super. 61, 424 A.2d 1190 (App.Div.1980) certification denied 87 N.J. 326, 434 A.2d 76.

Preemptive rights to new position based on special reemployment list (citing former N.J.A.C. 4:1-12.4). *Cunningham v. Dep't of Civil Service*, 69 N.J. 13, 350 A.2d 58 (1975).

4A:4-2.7 Promotion upon waiver of competitive examination

(a) Following the announcement of a promotional examination, the Commissioner may authorize the promotion of a qualified permanent employee in the career service by regular appointment without competitive examination and without the establishment of an eligible list if:

1. The employee has been successfully tested in the basic skills required for the promotional title;

2. The employee has not failed, within one year prior to the announced closing date, a promotional examination for that title. However, an employee who subsequently passed an examination for that title shall be eligible for promotion;

3. The number of interested eligibles for the promotional examination referred to in (a) above does not exceed the number of promotional appointments by more than two; and

4. Veterans preference rights are not a factor.

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)4.

Amended by R.1997 d.443, effective October 20, 1997.

See: 29 N.J.R. 2731(a), 29 N.J.R. 4456(b).

Substantially amended (a); and in (a)3, inserted "for the promotional examination referred to in (a) above".

Case Notes

Remedy for unlawful discrimination—employee should be promoted to positions earlier denied them as such positions become available (citing former N.J.A.C. 4:1-8.5). *Pilot v. Dep't of Health*, 7 N.J.A.R. 150 (1982) affirmed A-5858-81 (App.Div.1983).

4A:4-2.8 Scheduling of examinations

(a) Examinations may be scheduled for one or more sessions on a Statewide, regional or local basis.

(b) Candidates will be notified in an appropriate manner of the time and place of the examination, and of any postponement or cancellation.

(c) Candidates shall be at the examination site at the designated time. Candidates arriving late shall only be admitted as follows:

1. When an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment. See N.J.A.C. 4A:4-4.7(a)7.

(d) The Department of Personnel will review residence requirements for examination candidates. It is the responsibility of the appointing authority to review and enforce residence requirements relating to appointment and continued employment.

(e) When there is a requirement that an employee reside within a specific distance of the work site, a written request must be submitted by the appointing authority to the Department for approval of such a restriction.

1. A request must be received and approved prior to the announcement of the examination.

2. However, the Department may, in appropriate circumstances, add special residency limitations after an eligible list is promulgated.

(f) An applicant seeking to appeal a residency determination shall utilize the procedures contained in N.J.A.C. 4A:4-6.6. The applicant shall have the burden of proving his or her residence.

Amended by R.1991 d.498, effective October 7, 1991.

See: 23 N.J.R. 1984(a), 23 N.J.R. 2999(a).

Authorized DOP to enforce residency requirements from examination closing date to the date of appointment.

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).

Administrative Correction.

See: 25 N.J.R. November 15, 1993.

Amended by R.1998 d.291, effective June 1, 1998.

See: 30 N.J.R. 890(a), 30 N.J.R. 1975(a).

Added a new (a) and recodified former (a) through (e) as (b) through (f).

Case Notes

Applicant's appeal from determination of Merit System Board that he was not entitled to resident's preference was moot. *Nunan v. New Jersey Dept. of Personnel*, 244 N.J.Super. 494, 582 A.2d 1266 (A.D. 1990).

Termination of identification officers due to violation of residency requirements affirmed. *Barr and Payne v. City of Newark Police Department*, 97 N.J.A.R.2d (CSV) 582.

Employee was properly ranked on non-resident portion of eligible list. *Rizzolo v. Newark School District*, 94 N.J.A.R.2d (CSV) 506.

Documentation confirmed residence in Burlington township. In the Matter of *Stephen J. Wenger v. Burlington Township*, 94 N.J.A.R.2d (CSV) 394.

Employee was not resident for purposes of placement on eligibility list. *Lightfoot v. City of Newark*, 93 N.J.A.R.2d (CSV) 109.

Officer was required to live in the state of New Jersey. *Glover v. Middlesex County Probation Department*, 92 N.J.A.R.2d (CSV) 777.

Resident of borough as of announced closing date and as of appointment date entitled to residency preference. *Grembowiec v. Lysiak*, 92 N.J.A.R.2d (CSV) 356.

4A:4-2.12 Professional qualifications substitution program

(a) Applicants for designated open competitive or promotional examinations for professional titles may be permitted to substitute appropriate work experience, on a year-for-year basis, for specified higher educational requirements.

1. For titles requiring specific coursework or major fields of study, the successful completion of the coursework or fields of study shall be required.

2. Examination announcements shall contain, when appropriate, general information on the eligibility requirements and use of this program.

3. Appointing authorities shall conspicuously post information about this program.

(b) The Department shall make the determination whether prior work experience may be substituted for specified education requirements.

Case Notes

Substitution of degrees to meet educational qualifications for testing. *Gloucester Cty. Welfare v. N.J. Civ. Serv. Comm'n*, 93 N.J. 384, 461 A.2d 575 (1983) (see dissenting opinion).

4A:4-2.13 College Level Examination Program (CLEP)

(a) College Level Examination Program (CLEP) scores are acceptable as a substitution for college credits required for open competitive or promotional examinations. Acceptable scores are those consistent with scores accepted for credit by Thomas A. Edison College as published annually in its catalog.

(b) The following standards shall be considered:

1. Applicants may be considered eligible to take open competitive and promotional examinations by substituting a combination of education, appropriate work experience and acceptable CLEP scores;

2. Acceptable scores on the CLEP General Examination and Subject Examinations will be considered the same as college undergraduate credits;

3. Acceptable scores on the five-part CLEP General Examination may be substituted for up to 30 undergraduate college credits;

4. Where specific course work and/or a major field of study are required in the job specification or examination announcement:

i. An acceptable score on an appropriate CLEP Subject Examination may be substituted for college credit hours;

ii. An acceptable subscore on an appropriate subsection of the CLEP General Examination may be substituted for undergraduate college credit hours for the course work requirement;

5. Acceptable scores achieved on any of the CLEP Subject Examinations shall be viewed to correspond to those credits normally earned during the final two years of a four-year college curriculum;

6. Acceptable scaled scores or subscores on the CLEP General Examination shall be viewed to correspond to those credits normally earned during the first two years of a four-year college curriculum.

(c) Information about testing site locations and application procedures may be obtained from the CLEP Educational Testing Service (ETS), Princeton, New Jersey and Thomas A. Edison College, Trenton, New Jersey.

(d) Examination announcements shall contain general information on eligibility requirements and utilization of CLEP.

(e) Appointing authorities shall conspicuously post information about CLEP.

4A:4-2.14 Accommodation and waiver of examinations for persons with disabilities

(a) Otherwise qualified applicants with disabilities may request an accommodation in taking an examination by indicating their request for accommodation on the examination application.

1. Upon receipt of the request for accommodation, the Department shall make reasonable accommodation where appropriate and notify the candidate of the arrangements.

(b) The Commissioner may waive an examination for an otherwise qualified candidate or provisional with a physical, mental or emotional affliction, injury, dysfunction, impairment or disability which makes it physically or psychologically not practicable to undergo the testing procedure for a particular title, but does not prevent satisfactory performance of the title's responsibilities under conditions of actual service.

1. A request for waiver shall be in writing, filed with the Department and contain:

i. The examination's title and symbol number, or in the case of a provisional, his or her title and employer;

ii. A statement from an appointing authority utilizing the title that the individual can satisfactorily perform the duties of that title under actual conditions of service;

iii. A physician's statement with supporting medical documentation;

iv. Whether the individual has previously filed for or taken an examination for that title, the results, if any, and whether an accommodation has previously been made; and

v. Agreement to undergo any additional physical or psychological examinations that the Department deems appropriate.

(c) If reasonable accommodation can be made, the waiver request will be denied and arrangements made for such accommodation.

(d) If reasonable accommodation is not possible, the Commissioner will decide whether to grant a waiver, and if granted, whether the candidate will be employed or placed on an eligible list and in appropriate cases, granted seniority.

Amended by R.1993 d.270, effective June 7, 1993.
See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised heading and revised (a).
Amended by R.1994 d.72, effective February 7, 1994.
See: 25 N.J.R. 4821(b), 26 N.J.R. 794(b).

4A:4-2.15 Rating of examinations

(a) Ratings may be computed by a valid statistical method based on the use of scoring formulas and/or conversion tables.

1. When education and experience are to be rated as part of an examination, they shall be graded through the use of scales prepared by the Department of Personnel.

(b) Examinations consisting of more than one part may be rated independently.

1. Candidates failing to meet minimum standards on one part of the examination shall be ineligible for the remaining parts.

2. Candidates who do not receive a passing score on one part of an examination shall be deemed to have failed the entire examination.

3. Candidates who fail an entire examination shall not receive Performance Assessment Review (PAR) credit or credit for seniority. See (c) and (d) below.

(c) Candidates for State service promotional examinations shall receive credit for the final PAR rating on file in the candidate's personnel office as of the announced closing date for the rating period immediately preceding the announced closing date.

1. Credit shall be awarded as follows:

i. Three points for Significantly Above Standards;

ii. Two points for Exceeds Standards; or

iii. One point for Meets Standards;

2. When there is no final rating on file for a candidate as of the announced closing date, the rating for that period shall be deemed Meets Standards and credit shall be given for that rating.

3. Performance ratings shall not be used as a scoring factor in promotions when the supervisor who completes a performance rating for a subordinate or acts as a reviewer for a subordinate's rating competes in the same promotional examination as the subordinate.

(d) In calculating seniority for promotional examinations, voluntary furloughs and the following types of leaves shall not be deducted from seniority.

1. All leaves with pay including sick leave injury (SLI);

2. Military, educational, gubernatorial appointment, personal sick, disability, family, furlough extension and voluntary alternative to layoff leaves of absence without pay; and

3. In local service, leave without pay to fill elective office.

(e) Suspensions, other leaves of absence without pay not identified in (d) above, and any period an employee is laid off shall be deducted when calculating seniority.

1. In local service police and fire examinations, credit for record of service will be reduced by disciplinary suspensions received during the five year period immediately preceding the announced closing date.

(f) Employees reappointed from a special reemployment list shall be considered as having continuous service for seniority purposes. However, the elapsed time between the layoff or demotion in lieu of layoff and reappointment shall be deducted from the employee's seniority.

(g) When a municipality has a volunteer fire company and paid positions are created, any volunteer firefighter who has actively served for at least two years is entitled to service credits in addition to his or her earned examination score. The highest possible score for examination performance shall be 90 percent to which the service credit shall be added. Service credits shall be not less than three nor more than 10, and shall be added only to a passing score. The service credit shall be calculated by adding one point to the number of years of service: for example, add three points for two years of service, four points for three years of service, and so on. Any service time in excess of nine years shall be awarded the 10 point maximum.

(h) A candidate may take the Law Enforcement Candidate Record (LECR) examination no more than once in a two-year period. The score earned by the candidate on the LECR examination shall be used for all entry-level law enforcement examinations for which the candidate files during that time period. See N.J.A.C. 4A:4-2.17(a)1 on fees for use of score after one year.

(i) Ties in final earned ratings shall not be broken.

Amended by R.1989 d.569, effective November 6, 1989.
See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

(a)1 clarified; added new (d).
Amended by R.1989 d.570, effective November 6, 1989.
See: 21 N.J.R. 2429(a), 21 N.J.R. 3451(a).

Added (c)1.
Amended by R.1993 d.45, effective January 19, 1993.
See: 24 N.J.R. 3589(a), 25 N.J.R. 291(a).
Revised (c); redesignated existing (d) as (e); added new (d).
Amended by R.1993 d.270, effective June 7, 1993.
See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Deleted (a)2; revised (d); added new (e) and (f); redesignated existing (e) to (g); added new (h).
Amended by R.1995 d.12, effective January 3, 1995.
See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).
Amended by R.1997 d.482, effective November 17, 1997.
See: 29 N.J.R. 3385(a), 29 N.J.R. 4864(b).
Inserted new (h); and recodified (h) as (i).
Amended by R.1998 d.291, effective June 1, 1998.
See: 30 N.J.R. 890(a), 30 N.J.R. 1975(a).
Added a new (b)3.

Case Notes

Validity—excluding performance evaluations (EPEIS) from the scoring of promotional examinations when evaluating supervisors and their subordinates are candidates for same position is proper (citing former N.J.A.C. 4:1-9.5). *Honachefsky v. N.J. Civil Service Comm'n*, 174 N.J.Super. 539, 417 A.2d 67 (App.Div.1980).

Evaluation of education and experience in excess of minimum requirements not violative of due process (citing former N.J.A.C. 4:1-9.14). *Brown v. State of New Jersey*, 115 N.J.Super. 348, 279 A.2d 872 (App.Div.1971) certification denied 59 N.J. 273, 281 A.2d 535.

4A:4-2.16 Retention and inspection of examination records

(a) The following examination records shall be retained until the expiration of the eligible list:

1. The public announcement;
2. All applications;
3. The examination papers and scoring keys;
4. A description of the examination, including the date held, rating system and minimum score required, if any;
5. The list of eligibles; and
6. Any other pertinent information.

(b) All examination records listed in (a)1, 4 and 5 above shall be open to public inspection. The Commissioner shall determine which other records may be open to public inspection and the conditions for such inspection.

Amended by R.1992 d.41, effective January 21, 1992.
See: 23 N.J.R. 2906(b), 24 N.J.R. 229(b).
Revised (a)3 and 4.

4A:4-2.17 Application processing fees

(a) A \$5.00 processing fee shall be charged for each open competitive and promotional examination application, except as provided as follows:

1. The Commissioner shall establish a fee for each application for an open competitive or promotional examination for a law enforcement officer or firefighter title.

The fee shall not exceed the cost of developing, procuring and administering the examination, including the processing of any appeals or reviews associated with the examination. Receipts derived from this application fee shall be appropriated to the Department for use in developing, procuring and administering law enforcement officer and firefighter examinations, including the processing of any appeals or reviews associated with those examinations.

i. When announcements for the entry-level law enforcement examination list more than one title area (such as police, sheriff, corrections and bilingual), the processing fee shall be charged for each title area selected by the applicant. If a candidate is not appointed to a position within one year of establishment of the pool of eligibles, the candidate may remain in the pool of eligibles for an additional year by payment of the processing fee for each title area selected by the eligible.

(b) The fee shall be paid by check or money order, made payable to NJDOP, which shall be submitted with the application.

(c) Applications received without a fee shall not be processed unless the applicant submits, within the time required by written notice from the Department of Personnel, the required fee or, for open competitive applications, proof of exemption as described in (d) below.

(d) An applicant for an open competitive examination will be granted a waiver of the fee if the applicant provides documentation showing that, as of the closing date, he or she is receiving General Assistance benefits, benefits under the Work First New Jersey Act, or Supplemental Security Income. Proof must consist of one of the following:

1. General Assistance—a copy of the applicant's benefits identification card (if one was issued) or a letter from the applicant's local municipal welfare director.

2. Work First New Jersey Act—a copy of the applicant's Families First card.

3. Supplemental Security Income—a copy of the applicant's latest annual award letter or proof of the applicant's Medicaid identification number for S.S.I. benefits.

(e) The fee is for processing purposes only and does not guarantee admittance to an examination or appointment to a position. The fee shall not be refunded for any reason except untimely filing of the application or cancellation of the examination.

1. The fee shall not be refunded when the cancellation is due to the lack of eligible applicants ("no admits") or when no eligible applicant appears for testing ("no show").

2. When an examination is cancelled at the request of the appointing authority, the appointing authority shall reimburse the Department of Personnel for fees refunded to applicants.

New Rule, R.1993 d.270, effective June 7, 1993.

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

Amended by R.1997 d.482, effective November 17, 1997.

See: 29 N.J.R. 3385(a), 29 N.J.R. 4864(b).

Inserted (a)1.

Amended by R.1999 d.128, effective April 19, 1999.

See: 31 N.J.R. 199(a), 31 N.J.R. 1061(a).

In (a), added "except as provided as follows" at the end of the introductory paragraph, inserted a new introductory paragraph in 1, and recodified former 1 as i; and in (d), substituted "benefits under the Work First New Jersey Act" for "Aid to Families with Dependent Children" in the introductory paragraph, and rewrote 2.

SUBCHAPTER 3. ELIGIBLE LISTS

4A:4-3.1 Types of eligible lists

(a) The Commissioner may establish the following types of eligible lists:

1. Open competitive, which shall include all qualified eligibles following examination procedures.

2. Promotional, which shall include permanent employees who meet qualification requirements.

3. Regular reemployment, which shall include former permanent employees who resigned in good standing, retired, or were voluntarily demoted, who timely request reemployment and whose reemployment is certified by the appointing authority as being in the best interests of the service;

4. Police or fire reemployment, which shall include former permanent uniformed members of a police or fire department who resigned in good standing and whose reemployment is certified by the appointing authority as being in the best interests of the service; and

5. Special reemployment, which shall include former and current permanent employees who were laid off, laterally displaced or demoted in lieu of layoff.

4A:4-3.2 Order of names on eligible lists

(a) The order of names on an open competitive list shall be as follows:

1. When an announcement is open to more than one local jurisdiction, the resulting list of eligibles shall be separated into sub-lists by the residency requirements as provided by applicable law and ordinance.

2. Within each sub-list as provided in (a)1 above, the order of names shall be:

i. Eligibles entitled to disabled veterans preference in order of their scores;

ii. Eligibles entitled to veterans preference in order of their scores; and

iii. Non-veteran eligibles in order of their scores.

3. Eligibles who receive the same score shall have the same rank. See N.J.A.C. 4A:4-4.2(c).

4. See N.J.A.C. 4A:5-21 for examples on use of open competitive list.

(b) Eligibles on a promotional list shall appear in the order of their scores.

1. When scores are tied, veterans shall be listed first within each rank. See N.J.A.C. 4A:4-4.2(c).

2. See N.J.A.C. 4A:5-2.2 for examples on use of a promotional list.

(c) Eligibles on special reemployment lists shall be ranked in descending order of the class code or class level of the title from which the eligible was displaced. Within each class code or class level, eligibles shall be ranked in order of seniority. See N.J.A.C. 4A:8-2.4.

EXAMPLE: Emily is a State employee, and was displaced in the layoff process from her permanent title of Administrative Analyst 1, which has a class code of 29. She has a total of 10 years of seniority. George is also a State employee, and was displaced in the layoff process from his permanent title of Administrative Analyst 2, which has a class code of 26. He has a total of 15 years of seniority. The names of both Emily and George are placed on the special reemployment list for the title of Administrative Analyst 3, since it is a lower, related title. Emily's name will be listed first, because the class code of the title from which she was displaced is higher than the class code of the title from which George was displaced.

EXAMPLE: Robert, a municipal employee, was displaced in the layoff process from his permanent title of Supervising Maintenance Repairer, the highest class level title in his title series. He has 15 years of service with the municipality. Angela, who was permanent in the title of Assistant Supervising Maintenance Repairer when she was displaced in the layoff process, has 16 and one-half years of service with the municipality. The names of both Robert and Angela will be placed at the head of special reemployment lists for Senior Maintenance Repairer and Maintenance Repairer. On both of these lists, Robert's name will appear first and Angela's second, since Robert was displaced from a higher class level title.

(d) Eligibles on regular or police and fire reemployment lists shall be ranked in the order of seniority in the permanent title from which they resigned, retired or were voluntarily demoted, with the name of the person with the greatest seniority appearing first on the list.

(e) It shall be the responsibility of an eligible to keep a current address on file with the Department of Personnel.

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.1997 d.71, effective February 18, 1997.

See: 28 N.J.R. 4979(a), 29 N.J.R. 549(b).

Substantially amended (c).

Case Notes

Credit towards service in other governmental entity. *Kloss v. Parsippany-Troy Hills*, 170 N.J.Super. 153, 406 A.2d 170 (App.Div.1979).

Order of appointment. *State v. State Supervisory Employees Association*, 78 N.J. 54, 393 A.2d 233 (1978).

4A:4-3.3 Duration and cancellation of eligible lists

(a) Open competitive and promotional lists shall be promulgated for three years from the date of their establishment, unless the Commissioner determines that, under the circumstances, a shorter time period is appropriate.

1. An eligible list may, for good cause, be extended by the Commissioner prior to its expiration date, except that no list shall have a duration of more than four years.

2. The name of any employee shall not remain on a regular reemployment list for more than three years from the date of resignation, except as provided in (a)1 above.

3. Special reemployment, police reemployment and fire reemployment lists shall have unlimited durations.

(b) The Commissioner may, in cases of fraud, illegality, test invalidity, error by the Department or other good cause, cancel an eligible list prior to its expiration date by issuing an order, which shall provide a means for the notification of eligibles. The Commissioner shall also provide a copy of this order to affected appointing authorities.

(c) See N.J.A.C. 4A:4-4.9 for appointments after the expiration date of the eligible list.

Amended by R.1996 d.98, effective February 20, 1996.

See: 27 N.J.R. 4049(a), 28 N.J.R. 1201(b).

Added (c).

Amended by R.1997 d.410, effective October 6, 1997.

See: 29 N.J.R. 2732(a), 29 N.J.R. 4279(a).

In (b), substituted "an order, which . . . affected appointing authorities" for "a public notice and entering such notice in the minutes of the Merit System Board".

Case Notes

Employment applicants who were tested and appointed to hiring eligibility list for position of municipal fire fighter did not have protected property interest in their ranking. *Newark Branch, N.A.A.C.P. v. Town of Harrison, N.J.*, C.A.3 (N.J.)1991, 940 F.2d 792.

Power of Commission to extend local eligibility list. *Malone v. Fender*, 158 N.J.Super. 190, 385 A.2d 929 (App.Div.1978) supplemented 160 N.J.Super. 221, 389 A.2d 504, reversed 80 N.J. 129, 402 A.2d 240 (1979).

Statutory 3 year limit upheld (local service). *Imbriacco v. State Civil Service Commission*, 150 N.J.Super. 105, 374 A.2d 1251 (App.Div. 1977).

Life of promotion list could not be extended beyond three-year limit (citing former N.J.A.C. 4:1-11.6). In the Matter of Newark Police Sergeant and Lieutenant List for Dep't of Civil Service, 149 N.J.Super. 121, 373 A.2d 422 (App.Div.1977).

4A:4-3.4 Revival of eligible lists

(a) The Commissioner may revive an expired eligible list under the following circumstances:

1. To implement a court order, in a suit filed prior to the expiration of the list;
2. To implement an order of the Commissioner or Board in an appeal or proceeding instituted during the life of the list;
3. To correct an administrative error;
4. To effect the appointment of an eligible whose working test period was terminated by a layoff; or
5. For other good cause.

Amended by R.1989 d.570, effective November 6, 1989.

See: 21 N.J.R. 2429(a), 21 N.J.R. 3451(a).

In (a): deleted "or" between 3 and 4. Added new 4 and relettered old 4 as new 5.

4A:4-3.5 Consolidation of eligible lists

(a) The Commissioner may consolidate successive eligible lists for a given title which result from successive open competitive or promotional examinations by one or more of the following methods:

1. Placing the first name on the later list after the last name of the prior list;
2. Supplementing an incomplete list with an eligible list for an appropriate title; or
3. Combining of names of eligibles by scores.

(b) When eligible lists are consolidated, the part of the eligible list which was promulgated first shall not continue beyond its expiration date.

4A:4-3.6 Additions to eligible lists

(a) The Commissioner may add names to an eligible list at any time during the life of the list under the following circumstances:

1. A make-up examination has been given and a candidate has received a passing score;
2. To correct an error by the Department of Personnel;
3. To implement an appeal decision; or
4. Where a third party, such as a college or the Veterans Administration, has submitted documents to correct an administrative error.

(b) When the name of an eligible is added to an existing list to correct an error made by the Department of Personnel, the Department shall determine the retroactive certification and/or appointment rights. When the name of an eligible is added to an existing list for any other reason, the Commissioner shall determine the effect of the action on certifications and prior permanent appointments. See also N.J.A.C. 4A:4-1.4 for conditional regular appointments.

Case Notes

Improper deletion of applicant's name from list of persons eligible for resident's preference for appointment to city police department applicant would not warrant award of mandated appointment and back pay. *Nunan v. New Jersey Dept. of Personnel*, 244 N.J.Super. 494, 582 A.2d 1266 (A.D.1990).

4A:4-3.7 Priority of eligible lists

(a) When there is more than one current eligible list for a title, the priority of the lists shall be as follows:

1. Special reemployment, when the available position/title is in the department or autonomous agency from which the eligible was laid off, laterally displaced or demoted in lieu of layoff;
2. Promotional;

3. Special reemployment, when the available position/title is located in a department or autonomous agency other than that from which the eligible was laid off, laterally displaced or demoted in lieu of layoff;

4. Regular reemployment, police or fire reemployment; and
5. Open competitive.

(b) Reinstatement of a permanent employee following disability retirement shall have priority over appointment from any eligible list, except a special reemployment list. See N.J.A.C. 4A:4-7.12.

(c) Reemployment of certain law enforcement officers and firefighters pursuant to the provisions of N.J.A.C. 4A:4-3.9 and 4A:4-3.10 shall have priority over appointment from any eligible list, except a special reemployment list.

(d) For purposes of this section, an autonomous agency in local service is one which, by statute, is a body corporate and has the powers of an appointing authority. In State service, an autonomous agency is one which, by law, is in but not under the supervision of a principal department.

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

Added (b).

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)1 and 3; added new (c).

Amended by R.1996 d.471, effective October 7, 1996.

See: 28 N.J.R. 3208(a), 28 N.J.R. 4423(a).

Gave reemployment under 4A:4-3.9 and 3.10 priority over any eligible lists except special reemployment lists.

4A:4-3.8 Correction of errors

(a) The Department may correct an error at any time during the life of an eligible list.

(b) The Commissioner shall determine whether such correction shall affect any prior appointments or certifications.

(c) Corrections of errors may result in a change in ranking. See N.J.A.C. 4A:4-3.6.

Case Notes

Improper deletion of applicant's name from list of persons eligible for resident's preference for appointment to city police department applicant would not warrant award of mandated appointment and back pay. *Nunan v. New Jersey Dept. of Personnel*, 244 N.J.Super. 494, 582 A.2d 1266 (A.D.1990).

4A:4-3.9 Reemployment program for certain law enforcement officers and firefighters

(a) A municipality or a county which has established a police department as described in N.J.S.A. 40A:14-180 may appoint any person to an entry level title in the police department who has: