

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.2009 d.377, effective November 18, 2009.
See: 41 N.J.R. 2527(a), 41 N.J.R. 4700(b).

Chapter Expiration Date

Chapter 3, Classification, Services and Compensation, expires on
November 18, 2014.

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 See, also, Historical Notes and annotations at repealed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27; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 6, 7,
and 27; and repealed N.J.A.C. 4:3, Local Service, specifically
Subchapter 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: 36 N.J.R. 909(a), 36
N.J.R. 3267(a).

Chapter 3, Classification, Services and Compensation, was readopted
as R.2009 d.377, effective November 18, 2009. See: Source and
Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. CAREER AND UNCLASSIFIED SERVICES

- 4A:3-1.1 Career service
- 4A:3-1.2 Divisions within the career service
- 4A:3-1.3 Unclassified service
- 4A:3-1.4 Unclassified secretaries and confidential assistants: State service

SUBCHAPTER 2. SENIOR EXECUTIVE SERVICE

- 4A:3-2.1 General provisions: State service
- 4A:3-2.2 Designation of SES positions: State service
- 4A:3-2.3 SES appointments: State service
- 4A:3-2.4 SES performance evaluation: State service
- 4A:3-2.5 SES compensation: State service
- 4A:3-2.6 SES benefits: State service
- 4A:3-2.7 through 4A:3-2.8 (Reserved)
- 4A:3-2.9 Separation from the SES: State service

SUBCHAPTER 3. CLASSIFICATION

- 4A:3-3.1 Classification of positions
- 4A:3-3.2 Establishment of classification plans
- 4A:3-3.3 Administration of classification plans
- 4A:3-3.4 Title appropriate to duties performed

- 4A:3-3.5 Reclassification of positions
- 4A:3-3.6 New titles
- 4A:3-3.7 Trainee titles
- 4A:3-3.7A Police Assistant title: local service
- 4A:3-3.8 Intermittent titles
- 4A:3-3.9 Appeal procedure

SUBCHAPTER 4. COMPENSATION

- 4A:3-4.1 General provisions
- 4A:3-4.2 Job evaluation: State service
- 4A:3-4.3 Job reevaluation requests and appeals: State service
- 4A:3-4.4 Salary rates for initial appointments: State service
- 4A:3-4.5 Anniversary dates: State service
- 4A:3-4.6 Anniversary date change when employee is in non-pay status: State service
- 4A:3-4.7 Determining types of pay adjustments: State service
- 4A:3-4.8 Lateral pay adjustments: State service
- 4A:3-4.9 Advancement pay adjustments: State service
- 4A:3-4.10 Demotional pay adjustments: State service
- 4A:3-4.11 Downward title reevaluation pay adjustments: State service
- 4A:3-4.12 Movement of employees from no-range or single rate titles to titles having salary ranges: State service
- 4A:3-4.13 Salaries of employees whose annual salaries are not on a step in their salary range: State service
- 4A:3-4.14 Movement of employees to trainee titles from titles having higher pay rates: State service
- 4A:3-4.15 Salaries for employees appointed to tentative title positions: State service
- 4A:3-4.16 Salaries of employees on military leave during a trainee period: State service
- 4A:3-4.17 Salaries and anniversary dates for employees appointed from a special reemployment list: State service
- 4A:3-4.18 Salaries and anniversary dates for employees appointed from a regular reemployment list: State service
- 4A:3-4.19 Other forms of compensation: State service
- 4A:3-4.20 Retroactive pay: State service
- 4A:3-4.21 Salary overpayments: State service

SUBCHAPTER 5. OVERTIME COMPENSATION

- 4A:3-5.1 General provisions
- 4A:3-5.2 Definitions: State service
- 4A:3-5.3 40 hours or less in a workweek: State service
- 4A:3-5.4 Criteria for exemption from Federal Fair Labor Standards Act: State service
- 4A:3-5.5 Federal fair labor standards applicable to more than 40 hours in a workweek for 35, 40 and NE titles: State service
- 4A:3-5.6 Federal fair labor standards applicable to more than 40 hours in a workweek for 3E, 4E, NL and N4 titles: State service
- 4A:3-5.7 Special circumstances: State service
- 4A:3-5.8 Holiday pay: State service
- 4A:3-5.9 Appointing authority responsibilities: State service
- 4A:3-5.10 Appeal procedures: State service

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 Depart-

ment 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).

Where an employee believed that he was being asked to perform duties outside of his job title, he should have sought an audit of the position to determine whether re-classification under N.J.A.C. 4A:3-3.5 was warranted; but until such time as an audit could be performed and a final determination made, the employee was required to continue to perform the duties assigned by management (adopting in part and rejecting in part 2007 N.J. AGEN LEXIS 57). In re *Hatcher*, OAL Dkt. No. CSV 2123-06, 2007 N.J. AGEN LEXIS 352, Final Decision (March 28, 2007).

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 designated 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:3-3.7A Police Assistant title: local service

(a) The regular appointment of an employee to the title of Police Assistant shall be in the competitive division of the career service. An employee so appointed shall meet the minimum requirements set forth in the job specification and satisfactorily complete a working test period. See N.J.A.C. 4A:4-5.2(d).

(b) Removal of an employee serving permanently in the title of Police Assistant shall be done in accordance with major disciplinary procedures. See N.J.A.C. 4A:2-2.

(c) Subject to the provisions of (d) below, an employee serving permanently in the title of Police Assistant who meets one or more of the following conditions shall be removed from the Police Assistant title for cause:

1. Unsatisfactory performance rating, notwithstanding satisfactory completion of the working test period;
2. Failure to satisfactorily complete the Police Academy Special Law Enforcement Officer Class 1 Training Program, or equivalent, provided by the appointing authority;
3. Failure to meet the criteria for promotional eligibility by the announced closing date;
4. Failure to apply for the examination for the title of Police Officer when the employee meets the criteria for promotional eligibility by the announced closing date;
5. Failure of the examination for the title of Police Officer; or
6. One or more of the general causes for discipline set forth in N.J.A.C. 4A:2-2.3.

(d) In lieu of removing the employee for cause, the appointing authority alternatively may choose to transfer the employee, in accordance with N.J.A.C. 4A:4-7.1, or otherwise move the employee, to a different, vacant title. However, under no circumstances may an employee who meets one or more of the conditions in (c) above continue to serve in the Police Assistant title.

(e) An employee serving permanently for a minimum of one year in the Police Assistant title shall be considered eligible to take a promotional examination for the title of Police Officer, provided that the employee also satisfies the

criteria set forth in N.J.A.C. 4A:4-2.4 and 2.6 for promotional examinations.

New Rule, R.2006 d.104, effective March 20, 2006.
See: 37 N.J.R. 4351(a), 38 N.J.R. 1425(a).

4A:3-5.5 Federal fair labor standards applicable to more than 40 hours in a workweek for 35, 40 and NE titles: State service

(a) Employees in covered positions may be eligible for overtime compensation under this section as follows:

1. Employees in covered fixed workweek titles (35, 40) and covered non-limited titles (NE), shall be eligible for either cash payment or compensatory time off at the discretion of the department head with the approval of the Commissioner or his or her representative for time worked in excess of 40 hours per week, provided that compensatory time off in lieu of cash overtime compensation is permitted by one of the following agreements:

i. Applicable provisions of a collective negotiations agreement, memorandum of understanding, or any other agreement between the State and representatives of such employees;

ii. In the case of employees who do not have a collective negotiations representative, an agreement or understanding made between the appointing authority and the employee before the performance of the overtime work. For such employees who were hired prior to April 15, 1986, the regular practice in effect on April 15, 1986 regarding compensatory time off in lieu of cash overtime compensation shall constitute an agreement or understanding.

2. The Commissioner or his or her designee may approve an alternate work period and corresponding maximum hour designation for covered law enforcement and fire protection employees as set forth in the table below. Such employees shall receive overtime compensation for time worked in excess of maximum allowable hours in the work period.

Maximum Hours in Work Period

Work Period (days)	Firefighters	Law Enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

3. A hospital or residential care facility may, under a prior agreement with affected employees and as approved by the Commissioner or his or her designee, use a work period of 14 consecutive days for computing overtime compensation for covered employees.

4. Temporary employees shall be entitled to overtime compensation unless their work duties meet the criteria for exemption under the Fair Labor Standards Act.

(b) Overtime compensation under this section shall be paid as follows:

1. Covered employees (35, 40 or NE titles) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the Commissioner or his or her designee for time worked in excess of 40 hours per week as provided in (a)1 above. However, if an alternate work period is adopted pursuant to (a)2 above, overtime compensation shall be paid in accordance with that schedule.

2. Cash compensation for overtime work shall be at the rate of one and one-half times the regular rate.

3. Compensatory time off shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

4. Employees engaged in a public safety activity, an emergency response activity, or a seasonal activity may accrue not more than 480 hours of compensatory time off. Employees engaged in any other work may accrue not more than 240 hours of compensatory time off.

5. Cash compensation for accrued compensatory time off shall be paid at the regular rate earned by the employee at the time such employee receives such payment. However, upon termination of employment, an employee shall be paid for unused compensatory time at a rate not less than the average regular rate received during the last three years of employment, or the final regular rate received by such employee, whichever is higher.

6. Overtime compensation for work in excess of 40 hours for covered employees who work at different pay rates during the same workweek shall be paid as follows:

i. Cash overtime compensation shall be at the rate of one and one-half times the weighted average of the different rates paid during that workweek.

ii. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

7. If a 14 day work period is elected for hospital employees under (a)3 above, covered employees shall receive overtime compensation for work in excess of eight hours in a workday or 80 hours in a work period at a rate representing one and one-half times the regular rate of pay. The extra compensation at the premium rate paid for hours worked in excess of eight in a workday may be

credited toward any overtime compensation payable for hours worked in excess of 80 in the 14 day work period.

8. Work credited toward overtime compensation shall be in one-tenth hour units (six minutes) of continuous work beyond each regular work day.

Amended by R.1990 d.552, effective November 19, 1990.

See: 22 N.J.R. 2627(h), 22 N.J.R. 3481(a).

Added (b)8, regarding work credited in one-tenth hour units.

4A:3-5.6 Federal fair labor standards applicable to more than 40 hours in a workweek for 3E, 4E, NL and N4 titles: State service

(a) Employees in exempt positions may be eligible for overtime compensation under this section as follows:

1. Employees in exempt fixed workweek titles (3E, 4E) shall be eligible for either cash payment or compensatory time off at the discretion of the department head with the approval of the Commissioner or his or her designee for time worked in excess of 40 hours per week.

2. Employees in 4E titles who are participating in an approved alternative workweek program may be eligible for overtime compensation for work performed beyond 80 hours in a 14 day work period.

3. Employees in exempt non-limited titles (NL, N4) shall not be eligible for cash overtime compensation except as provided in N.J.A.C. 4A:3-5.7(d).

(b) Overtime compensation for employees in exempt positions shall be as follows:

1. Exempt employees in fixed workweek titles (3E, 4E) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the Commissioner or his or her designee for time worked in excess of the regular workweek.

i. Cash compensation for overtime work shall be at the rate of one and one-half times the hourly proration of an employee's base salary.

ii. Compensatory time off in lieu of cash compensation shall be at the rate of one and one-half hours for each hour worked in excess of the regular workweek.

2. Exempt employees in non-limited workweek titles (NL, N4) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work time patterns or a grant of comparable amounts of time off to a maximum of one hour for each hour of unusual work time, provided that employees serving as a commissioner or department head; an assistant or deputy commissioner; a division director or equivalent; and employees in exempt positions in titles which are not represented in collective negotiations with established salary ranges at or above range 32, and in such exempt positions in titles with single rates or no range who are receiving a salary at or above the first step of such ranges, shall not be granted such compensation. See N.J.A.C. 4A:3-5.7(e)2 as to special project rates.

3. Employees in exempt positions who are not eligible for cash overtime compensation shall not receive a cash payment for unused comparable time off upon separation from service.

Amended by R.1993 d.44, effective January 19, 1993.

See: 24 N.J.R. 3588(a), 25 N.J.R.

Revised (b)2; added new (b)3.

Amended by R.1997 d.8, effective January 6, 1997.

See: 28 N.J.R. 4295(h), 29 N.J.R. 123(h).

Inserted new (a)2 and recodified former (a)2 as (a)3.

4A:3-5.7 Special circumstances: State service

(a) Eligibility for overtime compensation for on call employees shall be as follows:

1. Employees in covered positions (35, 40, NE) who are required to remain on call and cannot use their own time effectively shall be considered to be working and shall have such on call time included in the total hours worked. In those situations where employees are merely required to remain at home or leave word with appropriate officials where they may be reached, they are not considered to be working while on call unless their freedom to engage in personal activities during that period is severely restricted.

i. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

2. Employees in exempt positions (3E, 4E, NL, N4) shall have no entitlement to compensation for such time.

(b) Eligibility for overtime compensation for training shall be as follows:

1. Employees in covered positions (35, 40, NE) who are required by their employer to participate in job related training shall have such training time included in the total hours worked.

i. Overtime compensation at the rate of one and one-half times the regular rate or one and one-half hours for each hour worked in excess of the regular workweek shall only be payable for that period after total hours worked exceed 40 hours in a workweek.

ii. For time worked in excess of a 35 hour fixed workweek but not over 40 hours, hour for hour compensation may be granted in the form of cash or time off, at the discretion of the appointing authority.

2. Employees in exempt fixed workweek positions (3E, 4E) may be granted hour for hour compensation in the form of cash or time off, at the discretion of the appointing authority.

3. Employees in exempt non-limited positions (NL, N4) shall have no entitlement to compensation for such time.