

1. Death in the candidate's immediate family;
2. Error by the Department of Personnel or the appointing authority; or
3. A catastrophic health condition or injury, which shall be defined as either:
  - i. A life-threatening condition or combination of conditions; or
  - ii. A period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days.

(d) Employees returning from military leave shall have an opportunity to take promotional examinations that have not yet been administered, or make-up examinations for active promotional lists for which they were eligible while on military leave. If the eligible passes the examination, his or her name will be placed on the eligible list, for prospective appointment only, based upon the score obtained, as if the examination had been taken when originally held.

(e) Employees who have been removed for disciplinary reasons or indefinitely suspended pending criminal charges, and are thereafter exonerated, shall have an opportunity to take promotional examinations that have not yet been administered, or make-up examinations for active promotional lists, if the suspension or removal resulted in the employee's non-participation in the promotional examination.

(f) A candidate must request, in writing, a make-up examination, within five days after the examination date due to one of the valid reasons set forth in (a), (b) or (c) above, as applicable. However, a candidate must submit a written request for a make-up examination within five days of receipt of the examination notice in case of one of the valid reasons set forth in (a), (b) or (c) above, as applicable, of which a candidate is aware upon receipt of the examination notice.

(g) Make-up examinations will be administered to the extent possible under the same conditions as the original examination but, in the case of public safety examinations under (c) above, shall be different in content from the original examination.

(h) The name of any candidate passing a make-up examination will be added to the eligible list. Except for error by the Department of Personnel or appointing authority, prior appointments from the eligible list will not be affected by the addition of a name to the list.

(i) All candidates taking make-up examinations, except physical performance examination, shall, as a precondition to taking the make-up examination, be required to sign a statement that they have no knowledge of the content of the examination as a result of information gained from or

furnished by other candidates who participated in the original examination, or third parties, provided that:

1. In the case of open competitive and promotional public safety examinations referred to in (c) above, candidates shall sign an additional statement accepting the make-up examination as a substitute for the original examination, provided, however, that signing this statement shall not preclude the candidate from challenging the validity of the make-up examination's items, the scoring of the make-up or the make-up test conditions. See N.J.A.C. 4A:4-6.3 and 6.4.

(j) In extraordinary circumstances, such as an examination that requires a multiple assessment of a candidate which results in a group consensus rating by a panel of experts, a make-up examination shall not be held. In such cases, candidates will be so notified at least 45 days prior to the date of the examination. The only exception will be documented error on the part of the Department of Personnel or appointing authority, in which case a make-up may be granted if practicable.

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

In (a): added language regarding police and fire promotional examinations.

Relettered old (b)-(g) as (c)-(h) with no change in text.  
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), (e), (g) and (h).

Amended by R.1994 d.114, effective March 7, 1994.

See: 25 N.J.R. 4823(a), 26 N.J.R. 1225(a).

Amended by R.1994 d.285, effective June 6, 1994.

See: 26 N.J.R. 1183(a), 26 N.J.R. 2256(b).

Amended by R.1997 d.72, effective February 18, 1997.

See: 28 N.J.R. 4978(a), 29 N.J.R. 549(a).

Inserted new (d) and recodified former (d) through (h) as (e) through (i).

Amended by R.2006 d.104, effective March 20, 2006.

See: 37 N.J.R. 4351(a), 38 N.J.R. 1425(a).

Rewrote the section.

#### Case Notes

When the Civil Service Commission on September 10, 2008 permitted two police sergeants to sit for the upcoming September 25, 2008 Police Lieutenant examination, the Commission did not find that there was error in the original decision to disqualify them based on their cheating during the 2005 exam, but only found that disqualifying them would have meant that neither could have been considered for promotion for a period of six years, which it found unduly harsh; therefore, because the officers could not demonstrate that there was error on the part of the appointing authority in disqualifying them, they failed to meet the criteria for granting a make-up examination in order to have time to study and prepare for the upcoming test. In re Gialanella, OAL Dkt. No. CSV 5772-07, 2008 N.J. AGEN LEXIS 1061, Final Decision (September 24, 2008).

#### 4A:4-2.10 Conduct and security of examinations

(a) The Department shall insure that all applicants for an examination are given equal opportunity to demonstrate their relative merit and fitness.

(b) In the conduct or administration of an examination, the following shall be considered prohibited actions:

1. Securing, by unauthorized persons, of questions or materials, unless the same are available to all applicants;

2. Securing, by unauthorized persons, of information concerning the number or identity of applicants until all parts of the examination have been held and a resulting eligible list issued;

3. Identification of an applicant's examination papers or work before all examinations have been rated, where anonymity is required;

4. Impersonation of an applicant, either in person or by the improper exchange of applicant numbers or in any other manner;

5. Use or attempted use of any unauthorized aids, information or assistance, including copying or attempting to copy from, or helping or attempting to help another applicant in any part of an examination or performance of work assigned;

6. A candidate's participation in an examination if it would likely result in physical injury to the candidate or others, or damage to property; or

7. Copying, recording or transcribing any examination question or answer, and/or the removal from any examination room of any question sheet, answer sheet, scrap paper, notes or other papers or materials related to the content of an examination.

(c) Anyone participating in a prohibited action under (b) above shall be disqualified from the examination and may be rejected from future examinations and subject to punishment as provided by law.

(d) See N.J.A.C. 4A:4-2.6 on confidentiality of examination records.

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 (d).

#### Case Notes

Once the Department of Personnel (DOP) or Merit System Board discovered that breaches in exam security had occurred, such as fact that unknown individuals had typed out 65 or 71 questions that appeared on sergeant's exam and disseminated them with answers throughout police department prior to the administration of any make-up exams, the make-up civil service exams should have been cancelled and an appropriate remedy fashioned to ensure that all candidates had a fair and competitive exam. In the Matter of Police Sergeant (PM3776V) City of Paterson, 176 N.J. 49, 819 A.2d 1173.

Violations of spirit and purpose of Civil Service rules. *Rox v. Dept. of Civil Service*, 141 N.J.Super. 463, 358 A.2d 819 (App.Div.1976).

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#### 4A:4-2.11 Residence standards

(a) In local service, an appointing authority shall provide the Department of Personnel with its residency ordinance or resolution, if any, on an annual basis as determined by the Department, and shall provide any subsequent modifications within 20 days after adoption.

1. If the appointing authority provides the Department with such a subsequent modification following promulgation of an eligible list, the Department may charge it for the cost of reordering the list.

(b) Where residence requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;

2. Whether time actually spent in the claimed residence exceeds that of other locations;

3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner (see section 4 of P.L. 2003, c.246), a court order or other evidence of separation may be requested;

4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;

5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and

6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

(c) Unless otherwise specified, residency requirements shall be met by the announced closing date for the examination.

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.

New Rule, by R.1995 d.12, effective January 3, 1995.

See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).

Petition for Rulemaking.

See: 34 N.J.R. 1742(a).

Petition for Rulemaking.

See: 35 N.J.R. 276(a).

Petition for Rulemaking.

See: 41 N.J.R. 2500(a), 2726(a).

#### 4A:6-1.24 School volunteer leave

(a) State employees in the career, senior executive or unclassified service shall be granted leave with pay, up to a maximum of 20 hours per calendar year, to volunteer in an academically beneficial school activity.

1. In local service, an appointing authority may establish a school volunteer leave program.

(b) An academically beneficial school activity, for purposes of this section, includes, but is not limited to, helping a teacher in the classroom, as well as the following activities held at the schools: reading to children; tutoring; assisting students with homework; mentoring; serving as a guest

speaker; advising students on careers; or assisting with extra curricular or coaching activities.

1. School volunteer leave is not intended to be used for such activities as parent teacher conferences back-to-school nights, field trips or attending class performances.

2. Activities may take place at any New Jersey public, private or parochial school, through grade 12.

3. The volunteer program shall be approved by the local board of education or, in the case of a private or parochial school, the appropriate administrative authority for that school.

4. The State employee need not be a parent of a child in the school in which the volunteer activity is being performed. However, employee participation in the volunteer program shall be subject to approval by the school principal or designee.

(c) State appointing authorities shall establish procedures for school volunteer leave, subject to the following: