

for particular announcements and/or title areas may depend upon the applicant's residency as indicated on the application.

(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.

Amended by R.2000 d.444, effective November 6, 2000.

See: 32 N.J.R. 2178(a), 32 N.J.R. 3981(a).

In (b)2, rewrote i and ii.

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

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

In (c), deleted "including, but not limited to, entry-level law enforcement examinations," and substituted "shall" for "may."

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 in-series title used in the local jurisdiction;
2. The next two lower in-series titles used in the local jurisdiction; or
3. 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 used in the local jurisdiction.

(b) 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.

(c) 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 serving in:

1. The next lower in-series noncompetitive title used in the local jurisdiction;
2. The next two lower in-series noncompetitive titles used in the local jurisdiction;
3. All related noncompetitive titles; or
4. Any competitive title.

(d) The title scopes described in (a)2, 3 and (c)2 through 4 above or any combination of such scopes may be used when a wider title scope is appropriate or the appointing authority provisionally promotes an employee who does not have permanent status in the next lower in-series title of the title series established by the Department of Personnel.

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

(f) The local jurisdiction may be required to provide the Department of Personnel with copies of ordinances, tables of organization or other evidence of the jurisdiction's use of titles.

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.

Amended by R.2003 d.395, effective October 6, 2003.

See: 35 N.J.R. 2389(a), 35 N.J.R. 4711(c).

Rewrote the section.

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).

Adopting Initial Decision's conclusion that county employer had reasonably accommodated an employee, who had hypertension, by assigning him to a position with a different title which did not require that he perform certain duties, notably driving trucks, even though the accommodation involved the employee's demotion from "Senior Recycling Operator" to the position of "Recycling Operator." Nonetheless, since the employee asserted that he would not have promotional opportunities to the Assistant Supervisor, Recycling Operations position if he remained in the Recycling Operator title, the Merit System Board recommended that future announcements for Assistant Supervisor, Recycling Operations, be open to employees holding the titles of Senior Recycling Operator and Recycling Operator, pursuant to N.J.A.C. 4A:4-2.4 (adopting 2006 N.J. AGEN LEXIS 890). *Fischbach v. Ocean County*, OAL Dkt. No. CSV 4180-06 (CSV 4698-05 On Remand), 2007 N.J. AGEN LEXIS 93, Final Decision (January 17, 2007).

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 noncompetitive 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.

1. Served as a law enforcement officer, other than a special law enforcement officer or seasonal law enforcement officer, in good standing in any State, county or municipal law enforcement department or agency;

2. In the case of service with the State, or a county or municipality operating under Title 11A, New Jersey Statutes, satisfactorily completed a working test period in a law enforcement title;

3. In the case of service with a county or municipality not operating under Title 11A, New Jersey Statutes, satisfactorily completed a comparable, documented probationary period in law enforcement title; and

4. For reasons of economy, efficiency or other related reasons, was laid off, or demoted from a law enforcement title to a non law enforcement title, within 60 months prior to the appointment permitted in (a) above.

(b) A municipality which has established a fire department as described in N.J.S.A. 40A:14-9.9, or a fire district established in accordance with N.J.S.A. 40A:14-70, may appoint any person to an entry level firefighter title who has:

1. Served as an officer or member, other than a temporary or seasonal officer or member, in good standing, in any fire department or fire district, or as a civilian Federal firefighter in good standing at any Federal military installation in New Jersey;

2. In the case of service with a fire department in a municipality or a fire district operating under Title 11A, New Jersey Statutes, satisfactorily completed a working test period;

3. In the case of service with a fire department in a municipality or a fire district not operating under Title 11A, New Jersey Statutes, satisfactorily completed a comparable, documented probationary period;

4. In the case of service as a civilian Federal firefighter, satisfactorily completed such firefighter training as is required for employment as a civilian Federal firefighter;

5. Except in the case of civilian Federal firefighters, for reasons of economy, efficiency or other related reasons, was laid off, or demoted from a firefighter title to a non-firefighter title, within 36 months prior to the appointment permitted in (b) above; and

6. As a consequence of the closure of a Federal military installation in New Jersey, been terminated as a civilian Federal firefighter within 48 months prior to the appointment permitted in (b) above.

New Rule, R.1996 d.471, effective October 7, 1996.
See: 28 N.J.R. 3208(a), 28 N.J.R. 4423(a).
Amended by R.1998 d.519, effective November 2, 1998.
See: 30 N.J.R. 2327(a), 30 N.J.R. 3938(a).
Rewrote (b).

4A:4-3.10 Procedures for reemployment program for certain law enforcement officers and firefighters

(a) A municipality, county or fire district interested in making an appointment pursuant to N.J.A.C. 4A:4-3.9 (hereafter "program") may contact the Department of Personnel for a list of persons compiled as follows:

1. Those persons laid off or demoted as provided in the program from a law enforcement title to a non-law enforcement title in the case of service with a police department;

2. Those persons laid off or demoted as provided in the program from a firefighter title to a non-firefighter title in the case of service with a fire department in a municipality or a fire district; or

3. Those persons terminated as a civilian Federal firefighter as provided in the program.

(b) A person who would like to be placed on a list of persons as indicated in (a) above may contact the Department of Personnel to apply for inclusion on a list.

1. Placement on a list of persons terminated as a civilian Federal firefighter as provided in the program shall be determined based on the person's length of service as a civilian Federal firefighter.

(c) In selecting a person from the list, the municipality, county or fire district shall verify and certify to the Department of Personnel the eligibility of the person for appointment pursuant to this program.

1. A municipality or fire district interested in making an appointment under this program shall give first preference in making an appointment to residents of the municipality and second preference to residents of the county not residing in the municipality.

2. A county interested in making an appointment under N.J.A.C. 4A:4-3.9(a) shall give first preference in making an appointment to residents of the county.

(d) An appointment made under this program:

1. Shall be reported to the Department of Personnel;

2. Shall have priority over open competitive and promotional eligible lists and regular reemployment lists, but no such appointment shall be made if a special reemployment list exists for the title in the municipality, county or fire district interested in making the appointment;

3. Shall be made without regard to seniority, age, veteran's status or the municipality, county or fire district from which a person was laid off or demoted;

4. Shall not be subject to a working test period; and

5. Shall not be made to a title other than an entry level title without Department of Personnel approval.

(e) A person appointed under this program:

1. May not be appointed a second time under this program unless the person is again laid off or demoted for reasons of economy, efficiency or other related reasons;

2. Shall begin to accrue seniority as of the effective date of the new appointment;

3. Shall not retain any superior rank held in the municipality, county or fire district from which the person was laid off or demoted; and

4. Shall not be removed from the special reemployment list for the jurisdiction from which the person was laid off.

New Rule, R.1996 d.471, effective October 7, 1996.

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

Amended by R.1998 d.519, effective November 2, 1998.

See: 30 N.J.R. 2327(a), 30 N.J.R. 3938(a).

Rewrote (a) and (b).

SUBCHAPTER 4. CERTIFICATION FROM ELIGIBLE LISTS

4A:4-4.1 Need for certification

(a) When a vacancy is to be filled in the competitive division of the career service from an eligible list, the appointing authority shall request a certification of names for regular appointment. Such request shall be submitted in advance under procedures set by the Department of Personnel to enable the Department to issue or authorize the necessary certification or advise that there is no appropriate eligible list.

(b) When a permanent competitive position has been filled on a nonpermanent basis, the Department of Personnel shall determine whether there is a need to issue a certification.

4A:4-4.2 Issuance of certification

(a) Upon determining that there is a need for a certification as provided in N.J.A.C. 4A:4-4.1, the Department of Personnel shall issue or authorize the issuance of a certification to the appointing authority containing the names and addresses of the eligibles with the highest rankings on the appropriate list.

1. When the Department of Personnel has accepted a single application for one or more title areas, pursuant to N.J.A.C. 4A:4-2.3(c), the certification shall be drawn from the pool of eligibles based on their title area and county preference and their residency.

(b) When a certification is issued, the Department shall notify or authorize the notification of the eligibles whose names appear on the list, at the last known address. See N.J.A.C. 4A:4-3.2(e) for address change notification.

(c) An appointing authority shall be entitled to a complete certification for consideration in making a permanent appointment, which means:

1. From special, regular and police and fire reemployment lists, the name of one interested eligible for each permanent appointment; or

2. From promotional and open competitive lists, the names of three interested eligibles for the first permanent appointment, and the name of one additional interested eligible for each additional permanent appointment. Eligibles who receive the same score shall have the same rank. If three or more eligibles can be certified as a result of this ranking without resorting to all three highest scores on the list, then only those eligibles will be certified.

i. When fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position/title.

ii. When fewer than three interested eligibles are certified and a provisional who is currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; or vacate the position/title.

iii. When a certification is comprised of multiple lists and an eligible's name appears more than once, the eligible will only be counted once for purposes of making a complete certification.

(d) See N.J.A.C. 4A:10-2.2 for penalties for failure to appoint from a complete certification.

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.2006 d.104, effective March 20, 2006.

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

In (c)2i, added "and no provisional currently serving in the title is listed on the certification"; added (c)2ii; recodified former (c)2ii as (c)2iii.

4A:4-4.3 Certification from appropriate lists

(a) When an eligible list for a title is either unavailable or incomplete, the Department may authorize a certification from an eligible list for an appropriate title of the same or higher level, in the same or related series under the following conditions:

1. The education and experience requirements for both titles are substantially similar;

2. The necessary knowledge, skills and abilities were evaluated in the examination process;

3. The geographic scope of eligibility to which the announcement was limited is the same as or includes the geographic location of the original title; and

4. The appropriate eligible list may be used to supplement any existing list in order to establish a complete certification.