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Report to the New Jersey State Legislature

on

The Implementation of

TITLE IIA

New Jersey Statutes

Submitted by

Eugene J. McCaffrey, Sr.

Chairperson

Merit System Board

and

Commissioner

New Jersey Department of Personnel

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September 25, 1987

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STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL
EUGENE J. McCaffrey, SR., COMMISSIONER
CN 317
TRENTON, N.J. 08625

September 25, 1987

Members of the 202nd Legislature
State of New Jersey
State House Annex
Trenton, New Jersey 08625

Dear Legislators,

The Civil Service Reform Act states that the Department of Personnel shall provide a report to the Legislature, one year from the effective date of the act, detailing progress in general implementation, including certain specified areas.

Accordingly, I am submitting a report of progress during this year of implementation in the areas indicated in Title 11A.

This report also includes a summary of our efforts to improve additional areas of operation that are the responsibility of the Department of Personnel.

Sincerely,

Eugene J. McCaffrey, Sr.
Commissioner
Department of Personnel

INTRODUCTION

In the past twelve months, the Department of Personnel has undertaken an extensive review of every area in the public personnel system. The Task Force on Implementation, with the participation of Department staff and volunteers from State and local agencies and the private sector, have examined on-going programs; designed new programs, policies, and procedures; and initiated steps to improve information flow and speed of response to agency personnel requests.

General implementation has been a massive undertaking. Although well underway, full implementation will require final adoption of the rules, additional data processing services, and actual execution of our blueprint for improvement.

11A:12-5 ANNUAL REPORT. One year from the effective date of this act, the department shall provide a report to the Legislature detailing its progress, and reporting on subjects including, but not limited to:

- a. The overall size and the number of career and non-career employees in the senior executive service, the number of senior executive service employees assigned to each principal department, and the progress of programs governing selection, placement, transfer, development, compensation, separation and performance appraisal of senior executive service employees;
- b. Progress made in establishing, consolidating and abolishing titles as provided in subsection b. of N.J.S. 11A:3-1;
- c. Progress made in reducing the number of provisional employees through the examination process;
- d. The uses and effects of the commissioner's authority to delegate responsibilities as provided in N.J.S. 11A:2-12; and
- e. The overall effects of this act on employee rights and performance and the role of collective negotiations units in personnel policies.

The report shall include separate reports on these and other subjects from the commissioner and the board, and separate reports from each of the advisory boards regarding their respective areas as provided for in subsection m. of N.J.S. 11A:2-11.

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SENIOR EXECUTIVE SERVICE

11A:12-5a. The overall size and the number of career and non-career employees in the senior executive service, the number of senior executive service employees assigned to each principal department, and the progress of programs governing selection, placement, transfer, development, compensation, separation and performance appraisal of senior executive service employees.

The development of the Senior Executive Service (SES) has been one of the most challenging aspects of reform. To insure that careful design preceded any implementation, there have been no appointments made to date to the Senior Executive Service. The project began with extensive research into existing SES programs in approximately a dozen other states, as well as the federal program, in an effort to identify their strengths and weaknesses, and the reasons behind their successes and failures.

Analysis revealed that while there were many lessons to be learned from these programs, none could serve as a model for New Jersey. One major weakness identified in most of these programs was lack of participation in the design by potential SESers and lack of information available to potential

participants. To avoid such limitations, development of New Jersey's SES included a strong participatory element to lay a foundation for success.

DESIGN PROCESS

Over a thousand individuals were contacted and participated in the design process. There was strong representation from the business and academic communities as well as state managers, subcabinet officials and high level supervisors. Professional organizations, such as the American Society for Public Administration, the Certified Public Managers Society, the Personnel Officers Advisory board, the Organization of Directors of Administration, the Affirmative Action Council and the Training Council, all played an active role in creating this new managerial level. Additionally, a national computer conference was held, with participation from industry executives and educational leaders across the country. This deliberate process of idea generation and solicitation, program development, modeling, feedback and fine tuning has provided an excellent foundation. The process will continue during program implementation and will be accomplished through an incremental phase-in to insure careful control, opportunities for modification and optimal results.

A guiding principle in design was the need for flexibility at the departmental level while still maintaining

effective centralized control of the program in the Department of Personnel. Extensive analysis and discussion with federal leaders in the Office of Personnel Management, other federal departments participating in SES and SES members themselves, revealed that lack of this control proved to be a critical weakness in the federal program.

Understanding the purpose of the Senior Executive Service in New Jersey is essential to understanding the program elements. The purpose is to:

Attract, retain and develop experienced, professional senior level managers with demonstrated skills and expertise for professional leadership positions;

Ensure that the executive management of New Jersey State government is responsive to the needs, policies and goals of the State.

Improve government effectiveness through enhanced leadership and specialized executive development; and

Ensure the continuity of senior level executive management expertise as well as provide for fresh viewpoints and methodologies and varied experiential and

technological backgrounds to enhance the quality of service to the State's citizens.

POSITION IDENTIFICATION

Determining which positions will be allocated to SES is not a simple task. Departments' needs, workforce composition and organization vary tremendously due to differing missions and sizes. Adding to the complexity of position identification is the need to phase-in the SES program cautiously and deliberately. During the first year of operation, positions will be placed in the SES in response to individual department requests to fill specific needs. Some departments may choose the route of across the board implementation at the highest levels, e.g., placing all, or most, of its career service directors in the SES. Others may find the program most useful in a specific organizational unit and choose to allocate the chiefs, deputies and directors of that unit only to the SES initially. Program needs should be the driving force in this identification.

The initial group of positions will be identified during this upcoming first year following general policy implementation. Some of the factors that will be analyzed in reviewing individual departments' requests for position allocation are the size of the department, the geographical

distribution of its offices, the number and level of classified and unclassified employees and managers, the department's commitment to the program, its justification for allocation to the SES and its organizational structure. This methodology was developed to ensure careful control and excellence since the initial group of positions, and individuals, will be a determinant of the success of the SES.

SES candidates will be identified individually by each department head who will forward a recommendation to the Commissioner of Personnel for approval, accompanied by a description of the selection process and reasons for selecting the particular individual. Careful attention to equal employment opportunity and affirmative action goals is an integral part of the selection process. To ensure the broadest field of candidates, all positions are required to be posted in all departments rather than only in that one where the vacancy lies. This posting requirement may only be waived when a position is first converted to the SES if the cabinet member wishes to fill it with the current incumbent.

REQUIREMENTS

One problem in developing requirements was the restrictive nature of requirements by definition. While there must be standards, the system must also allow for individuals who may be excellent managers but who do not possess every

element of the technical requirements. Provision has therefore been made for the Commissioner of Personnel to waive requirements with sufficient justification. The standards are as follows:

A Bachelor's degree shall be required for all SES positions. An advanced degree in management, administration or other area related to the particular position is an asset.

Five years of high level supervisory and/or managerial experience shall be required. A variety of management experiences and organizational responsibilities is an asset.

Successful completion of the Certified Public Manager Program will be a significant factor in selection.

There should be evidence of major professional accomplishments and demonstrated communication ability and leadership skills.

There should be demonstrated managerial skills including interpersonal, decision-making, problem analysis and creative thinking, judgment, delegation, control, sensitivity, interdepartmental cooperation/liaison, development of subordinates and organizational awareness.

SELECTION PROCESS

With the assistance and advice of the Department of Personnel, the selection process will be determined by each department and may consist of a traditional interview, an interview before an oral board or another type of evaluation. Once the selection process is established, consistent application to all candidates for a particular position is required. In addition, candidates will be required to provide endorsement(s) from a manager or supervisor within State government, if the candidates currently work for the State, or

BENEFITS

A gainsharing program is a unique element of the SES design that will permit SES members and their staff to earn additional compensation for approved projects which measurably save money, avoid costs or add value. Project proposals will be submitted to the Department of Personnel, with the endorsement of the department head. These proposals will be carefully reviewed prior to authorization to commence and approved proposals will be monitored, evaluated and verified. Gainsharing projects must be headed by SES members and must be in addition to their normal duties and responsibilities. A unique aspect of this program is the allocation of a major portion of any award to the staff who participate in the project. The SES manager will determine the distribution of this award with the approval of the appropriate cabinet official as part of the project proposal and post-project evaluation process.

A special benefits package will include an additional five days vacation, a provision for converting a portion of unused vacation to cash or to an investment program, reserved parking, a biennial physical examination, access to microcomputers at home and annual paid memberships in two professional organizations.

Training and development are an integral part of the SES program. The executive development program will include such elements as:

- o An annual seminar/conference program
- o Assessment Center type evaluation of leadership skills and abilities
- o Individual development program
- o General courses
- o Enhanced educational opportunities.

The purpose of the annual seminar/conference program is to analyze from an executive perspective the State's mission, objectives and current priorities, budgetary and legislative issues and strategies, common problems, critical issues and the role played by various departments. The program will also provide an opportunity for managerial networking and serve as a motivational tool, as well as provide exposure to the latest in managerial and organizational theory and practical application. High level State officials will be an integral part of this program.

Some of the types of general courses that may be developed for SES members include how the budget system and legislative systems work, how public opinion is formulated, long term trends in policy areas that cross departmental lines, management styles, managing change, and strategic and creative thinking. Participation will be encouraged in advanced educational opportunities such as executive master's degree programs and other specialized certification programs.

MONITORING AND EVALUATION

A Senior Executive Service Office will be established within the Department of Personnel to service as a liaison with the departments on all SES matters. This Office will be responsible for all monitoring functions, training and development programs and program evaluation.

The SES office will also be responsible for recommending programmatic change as warranted to ensure excellence at the top levels of government.

JOB TITLES

11A:12-4b. Progress made in establishing, consolidating and abolishing titles as provided in subsection b. of N.J.S. 11A:3-1.

Title 11A:3-1 requires that positions with similar qualifications, authority and responsibility be grouped into a single title. The Department has developed an automated system of analyzing jobs to improve specifications and enhance development of job-related tests. Additional outcomes of the process are expected to be the ability to:

- o Combine State and local classification plans
- o Reduce the number of existing titles
- o Control future growth in the number of titles
- o Provide for cyclical review of the classification plan
- o Change the philosophy of the system from one that looks for differences in jobs to one that looks for similarities.

The history of the title growth problem extends as far back as the early 1970's. During a public hearing on the Governor's Management Commission Report, the significantly large number of classes (titles) were noted as "an apparent use of the classification system to circumvent both the civil service merit system and the established compensation schedule." Continuously creating new titles was seen as a means to promote individuals and increase their salaries, as well as to avoid use of existing employment lists for current titles.

In June 1972, there were 3,674 class titles in the State Classification Plan. Not only was the State Classification Plan characterized by an increase in the number of class titles, but also by narrowly defined and specialized class titles. By December 1973, the ratio of State employees to State class titles was approximately 14.5:1; and, in 1987, the ratio was approximately 10:1. It seems the system was moving toward an individual title for each job, with 35% of the titles having only one incumbent; 52%, three or fewer incumbents. The average number of employees per title is shown in Figure 1.

The ramifications of this growth of titles on the system's ability to provide qualified applicants to fill jobs and conduct the business of government are disquieting. Equally affected is the ability of the Department of Personnel to perform its daily functions. The number of titles determines the number of examinations that must be developed and administered, the number of certifications of individuals on lists who have taken tests, the number of provisional appointments that may be made due to the large number of titles without lists, and the number of classification and compensation actions. Better methodology and tools were needed to manage the work force and the creation of titles.

AVERAGE NUMBER OF EMPLOYEES PER TITLE IN EACH TITLE SALARY RANGE

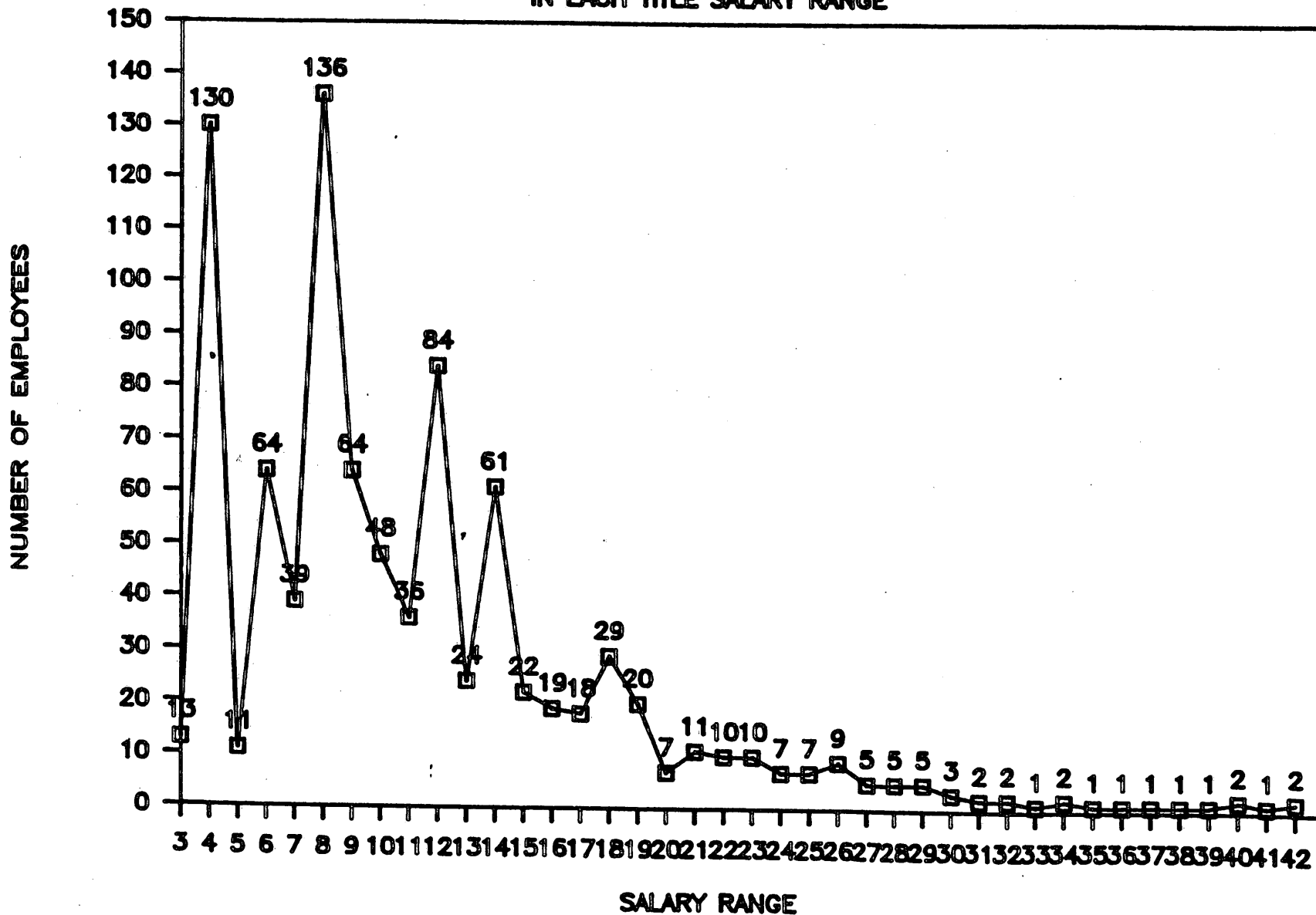


Figure 1

To address the issue of titles, the Department evaluated three methodologies:

- o Review of specifications
- o Interview of employees
- o Use of questionnaires.

The first approach was review of specifications. Subcommittees were formed to consider certain groups of titles which initially appeared to be candidates for consolidation and approximately 2,400 titles were eliminated, representing 20% of the total classification plan. The number of titles involved (12,000 State and local), however, made this type of review time consuming and not sufficiently systematic. In addition, this approach did not provide for a methodology which would limit the growth of titles in the future. This methodology, nonetheless, will be used to review titles with extremely low incumbency since any other approach would not yield meaningful results.

The second method, the cornerstone of the current methodology, is the interview of individual employees. The Department of Personnel has approximately 20 classification analysts who visit the employee's work site and interview the employee and his or her supervisor. The results of this desk audit determine the title of the position. These 20 staff members, however diligent, cannot complete timely desk audits for 180,000 State, county and municipal employees. This

methodology was not adopted because of the overwhelming numbers of employees involved.

The methodology adopted for the bulk of the present job analysis work is the third alternative, questionnaires. This methodology evolved as a result of the work of one of the original subcommittees. Historically, the Department of Personnel has conducted job analysis for the same job in several distinct places. The Division of Classification and Compensation conducts two separate analyses; first, to develop the specifications for the job; and second, to set the appropriate compensation. The Division of Examinations then conducts a third job analysis which leads to the development of examinations. The statutory Task Force on Equitable Compensation is also conducting job analysis and the Division of Equal Employment Opportunity and Affirmative Action reviews the job analysis done by the other divisions. The Division of County and Municipal Government Services also performs separate job analysis to categorize tasks and set job specifications.

Clearly, the resources of the Department would be better allocated if this information were collected at one time in a format that could be used for all activities.

One of the problems associated with developing questionnaires is language. Job descriptions (specifications)

currently vary in the language used to describe similar tasks. This encourages fine distinctions in categorizing jobs and results in numbers of titles. The Division of Examinations had a system of language adopted from the federal government which allows for a common definition of terms.

Using this standardized language, existing job analysis data, job specifications, questionnaires developed by Massachusetts in its own consolidation effort and by the Pay Equity Task Force as a base, three teams are working at the present time to produce survey questionnaires in accordance with occupational groups developed to categorize titles.

The surveys presently being developed for State and local employees will consist of questions pertaining to tasks, which are used by Classification staff; and knowledge of skills and abilities which are used by the Examinations staff. The questionnaires will be administered with computer readable answer sheets so that the sample of 30% of all employees in each title and their supervisors can be surveyed by this method. The information will be analyzed in accordance with the standard statistical technique of cluster analysis which identifies and groups similar things; the cluster analysis will be used to create profiles of the job. Differences in profiles will identify different jobs. Knowledge, skills and abilities will also be profiled. Since the language of the questionnaire is

the language of the Division of Examinations, the results of this questionnaire will also be used to produce job-related examinations.

One of the important reasons for selecting and developing this survey questionnaire methodology was because of its ability to limit the number of new titles. Long range plans for the system, recognizing that jobs will undergo change, include cyclical review of the classification plan. Separate plans for State and local jurisdictions will be eliminated and there will be one combined classification plan. The resulting new specification will be more informative for employees and will contain the various levels within a class title so that an employee will know what skills and tasks are needed at each level and at what point in time s/he is engaged in the next level of work.

Since the signing of Title 11A, a moratorium in establishing new job titles has contained growth. During the past year, Department staff have identified existing titles similar to requests made by appointing authorities for new titles. Eventually, any agency requesting a new title will receive a questionnaire. If the profile that results from the answers to the questionnaire matches an existing profile, the agency will use the title meeting that profile. If the profile does not match, there will be a sound basis for establishing a

new title and the information necessary to examine potential candidates for this new title will be available.

As a result of the preceding methodology, titles will be appropriately identified based on the clear direction in Title 11A that similar jobs be grouped into one title.

PROVISIONAL REDUCTION THROUGH EXAMINATION

11A:12-5c. Progress made in reducing the number of provisional employees through the examination process.

In line with the primary objective of improving the entire recruitment, selection and placement process and in particular, reducing provisional appointees, the Department established a goal to deliver a list of qualified candidates to appointing authorities to fill vacancies in a timely fashion. Implementing a number of new programs, automation of some processes and functional changes within the Department will support this goal. Some of these changes have already been initiated; others are in various stages of design and implementation. A number depend on final adoption of the rules.

The impact of these innovations and changes over the past twelve months on the pool of employees serving in a provisional capacity has been dramatic on both a short term, as well as a continuing and long term, basis. Results can be observed in two areas.

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PROVISIONALS MADE PERMANENT

First, the 12,177 State employees who had provisional appointments pending open competitive and promotional examinations as of September 26, 1986, were identified and targeted. Over the past twelve months this number was reduced to 6,861, a 44% reduction. This reduction will continue as on-going programs produce a steady supply of prospects for employment. The most dramatic result has been in the record number of permanent appointments during a twelve month period. These 10,438 appointments represent an increase of more than 40% in permanent appointments over the previous year. The system has never recorded such numbers in its eighty year history. Currently, the number of provisionals pending open competitive examination is the lowest (4,053) recorded since January 1980 and is perhaps the lowest in the last 10 years, representing an average 20% decrease over previous years.

In short, the programs and changes selected and implemented so far are effective and efficient. Many have not approached their maximum potential.

DEVELOPMENT OF COMPREHENSIVE PLAN

As a first step in determining new direction for the examination system, suggestions were solicited intra- and inter-departmentally. Posters and letters requesting input were sent and meetings were held in order to use the maximum resources of this statewide brainstorming approach. The following represent the diversity of suggestions received: altering computer printouts for ease of use and efficiency; using standardized aptitude testing; combining functions of various units of the Department of Personnel; and automating the certification process. Proposals were reviewed and selected for implementation and a comprehensive, overall plan was drafted in an attempt to meet the goals of Civil Service Reform. Following is a summary of some of the more significant and successful programs.

INNOVATIONS IN EXAMINATION PROCESS

One proposal which has proven successful and is presently being expanded involves moving the actual examination process closer to county and municipal hiring agencies, thus drastically reducing the time it takes to produce an eligibility list for those selected titles which have historically been a problem. In the main stream of the examination process, it takes from 8 to 14 months to produce a list for an open competitive examination.

In a Camden Regional Office Examination Demonstration Program, examinations for selected titles are announced and lists produced within 45 days. Tests for local government titles with residency requirements are being conducted by the Camden Regional Office acting as an extension of the Division of Examinations. Announcements are first advertised in the local area newspapers; applications are collected and evaluated based upon relevant education and experience; grades are assigned; notifications of results are sent to the applicants and the eligible list is certified and sent to the appointing authority. Placement of this activity at the regional source increases the speed of service and tailors the design of the activity to those local government appointing authorities.

Another newly created program allows continuous recruitment, testing and placement for those high activity titles where the Department has historically been incapable of meeting agency needs for qualified employees. This program used a tailored recruitment approach and ratings of education and experience as the testing vehicle. Recruitment included special inserts in the Job Opportunities Bulletin (JOB) and public service radio and TV spots which were aired from May through July. Recruitment for eight hard-to-fill titles in medical, psychological and institutional services was accomplished using these media. A total of 1000 applications were received for

these eight titles over the three months. Typically, 200 applications would be received during such a period, if no special intervention occurred. This five-fold increase can be attributed to the effectiveness of the recruitment effort in the various media that apparently produced a response from a previously untapped applicant pool. As part of this program, a self-contained set of computer programs on a stand-alone personal computer completed the process from application review to eligibility list production. In effect, the program's small staff acted as if it were a "mini" Department of Personnel. This program will be expanded by adding new titles for subsequent announcements.

Another newly designed program involves a crisis management response for new or expanded programs initiated by the legislature or by gubernatorial mandate. In the past, there have been new programs that required immediate implementation in response to public need such as the legislative response to the growth in the number of child abuse cases. Agencies did not have long-term planning for such programs because of the uncertainty of program funding and suddenly were required to hire large numbers of provisional employees. Subsequent examinations then caused disruption within an agency where trained provisionals were displaced by eligibles on the resultant list. A "one-time" temporary title re-assignment

could reduce such an unfavorable impact while allowing formal test development activities to proceed for use in future employment.

On-site walk-in testing is another approach that has been achieving impressive results in a drastically reduced time frame in three problem areas (Correction Officer Recruit, Senior Stenographer, Family Service Specialist 3). Responding to special advertising, job seekers go directly to test centers without previously having filed an application. Only the truly interested applicants show for the exam and all required information is captured at one setting. Expedited scoring processes produce employment rosters almost immediately, allowing the actual hiring to take place while the candidate interest is still high - not months later.

Finally, the entire planned exam announcement system has been revised to insure that every title is announced for examination at least once a year. Additionally, the time required to administer a test, once announced, will be systematically shortened as other programs implemented reach full maturity.

"FAST TRACK" PROGRAMS

Other "fast track" programs are being implemented to speed the delivery of lists to clients and to reduce provisional time and numbers. One of these programs is entitled Provisional Reduction through Examinations(PARE). It is a short term grouping of employees from different divisions within the Department of Personnel, who are using their collective knowledge to reduce the long-term-provisional employee count. PARE staff have expedited the announcement of over 60 high-provisional-count titles; held 242 exams which tested 2,790 people; developed an on-site clerical testing program.

Another "fast track" program involves improving follow-up communications with county and municipal governments to ensure the rapid disposition of certifications of employment lists by the appointing authorities when previous contact resulted in negative or no response from the jurisdiction. Appointing authorities are made aware that new statutory provisions NJS 11A:4-5 and 11A:10-1 will be enforced. These provisions allow the Department of Personnel to curtail provisional appointments and/or impose salary disapprovals when lists are not used.

Many of these programs are short-term in nature, since the planned implementation of automation and alterations in

organizational structure will change the reactive character of the Department to proactive.

CUSTOMER SERVICE

A functional change in the Department is a concept designated the HUB, designed to provide rapid response to client agencies and to maximize test utility, announcements and inventory of tested/qualified eligibles. The planned HUB-centered rapid response teams will depend on a regionalized customer service operation. These customer service units will be sited at the Department's regional offices, which presently serve local jurisdictions only. Under the HUB concept, all units will serve both State and local appointing authorities. In addition to responding to agency requests for lists of eligibles for appointments to fill vacancies, customer service representatives will actually "market" the Department's services in the field to State and local appointing authorities, providing a personalized approach to filling agency needs and acting as a contact for agencies with the Department's training services. Local appointing authorities have, for example, indicated substantial need for training, advice on title-related problems and technical assistance to improve personnel management.

DELEGATION

11A:12-5d. The uses and effects of the commissioner's authority to delegate responsibilities as provided in N.J.S. 11A:2-12.

11A:2-12. Delegation. The commissioner may delegate to an appointing authority the responsibility for classifying positions, administering examinations and other technical personnel functions according to prescribed standards, but the commissioner may not delegate any function of the board.

Implementation of the statutory provision for delegation of certain technical personnel functions is proceeding in a deliberate fashion. Broad implementation of the delegation function has awaited the final adoption of the rules governing delegation.

The rules are designed to allow for the delegation of a wide spectrum of personnel functions including:

- o Classifying and reclassifying positions
- o Announcing examinations and collecting applications
- o Administering examinations prepared by the Department of Personnel

- o Implementing promotions upon waiver of competitive examination
- o Certifying lists of eligibles; and
- o Other technical personnel functions.

Any delegation must be written and specify the accountable appointing authority representative, the Department of Personnel representative supervising the delegation, the duration, and the provisions for appropriate notice of the delegation. This notice must state the name, address and telephone number of the appointing authority representative and the employee in the Department of Personnel to contact in the case of complaints.

In local government, the law provides for "consultation with the advisory board representing political subdivisions." As a prelude to implementation, a small group of local officials met regularly through the spring and early summer with Department staff to discuss concerns and explore the feasibility of certain types of delegation. These discussions highlighted areas needing careful delineation when effecting a delegation to local government. A series of forms that can be used to formalize any delegation of functions to local government was developed with the cooperation of committee members.

A review of the data produced by the local government survey (described in Services to Political Subdivisions), reveals that fifty percent of the appointing authorities who responded indicated a

willingness to accept delegation in one or more of the following areas:

- o Processing promotional examinations when no competitive situation exists
- o Issuing certifications
- o Administering examinations
- o Conducting classification audits
- o Processing seniority rosters for layoffs
- o Maintaining employment history records.

The majority of local appointing authorities indicating a willingness to accept delegated responsibilities also responded positively in the following areas;

- o Staff members engaged solely in personnel/human resources matters
- o Automated employee records
- o Personnel manuals
- o Affirmative Action plans
- o Provisional employees regularly encouraged to file for exams for these positions
- o Audits currently being conducted on positions within the jurisdiction.

Additionally, returns from the local government survey show a concern on the part of some respondents that additional training in the merit system and sufficient staff should precede serious consideration of delegation.

AUDIT REQUIREMENT

Title 11A:2-12 further provides that all such delegation shall be subject to supervision by the Commissioner and post-audit. Such delegation may be canceled, modified or limited at any time.

Auditing is crucial to ensure the integrity of any delegated function. The committee which developed the auditing prototypes included the State Auditor, representatives from the Office of Legislative Services, the Office of Management and Budget, municipal government, the federal Office of Personnel Management and Department of Personnel staff.

The committee recommended that an auditing function not be part of the day to day operation of the Department and that it stand separate from those functions being audited. The auditing process must be objective and dispassionate in its approach. It is a system to fix problems, not to affix blame, and to ensure the proper functioning of delegated matters. The responsibility is to monitor, cite exceptions, recommend corrective action, provide time to remedy exceptions and provide sanctions when necessary.

Prior to the delegation of any function, an auditing process will be in place and reference to auditing made in every delegation order. Cognizant of the need to have auditing policies and procedures in place even at the beginning of delegation, the committee developed prototypes of three different types of audits that might be required. These prototypes are broad enough to be easily modified and applied to other areas. The scenarios selected were delegation of promotional actions for which examinations are typically waived, the delegation of certain reclassification

activities, and the auditing of recruitment and hiring practices for noncompetitive appointments.

The first step was to collect system-wide background data on approved transactions. The next was setting standards and criteria against which all delegated transactions would be measured. This is based on both law, rules and policies as well as analysis of the background data. Following that, in a typical audit, information would be collected on that particular appointing authority's transactions for the period of time being audited. Some of this information would be available through the Department's computer database; other information would be available through required forms that had been filed.

An analysis of the data and the type of delegated function being audited would determine the auditing method; for instance, if field visits are required, what sampling size to use or whether all transactions will be reviewed, how samples should be stratified, particular items that should receive special emphasis in any review and size of auditing staff required for the particular audit.

Upon completion of this portion of the audit, audit staff would follow the format developed by the Office of Legislative Services: briefing the appointing authority informally, written summary of

findings, formal meeting with appointing authority to discuss findings and providing an opportunity for agency response.

Most errors discovered during the auditing process will be rectified immediately. However, should that not occur and should there not be compliance, sanctions would be considered as well as modification or rescission of the delegation order. Through this auditing process to ensure the integrity of the delegated functions, both the spirit and intent of the Title 11A delegation provisions will be met. Care will be taken that, in implementing delegation, the rights of employees are properly safeguarded through consultation with appropriate bargaining units, the responsibilities of participating appointing authorities are clearly set forth and the integrity of all merit system processes is maintained.

EMPLOYEE RIGHTS

AND

THE ROLE OF COLLECTIVE NEGOTIATIONS UNITS IN PERSONNEL POLICIES

11A:12-5e. The overall effects of this act on employee rights and performance and the role of collective negotiations units in personnel policies.

EMPLOYEE RIGHTS

The word "Personnel" in the Department's new title reflects the expanded authority given the Merit System Board by Title 11A to protect employee rights based on the particular circumstances and to enforce rules to carry out the law. Title 11A clarified the powers of the Board and the Commissioner with respect to penalties for violations. Formerly under Title 11, enforcement of the rules was limited to withholding salaries of employees who were illegally appointed. Two cases recently heard by the Merit System Board provide graphic illustration of the use of these expanded powers to enforce employee rights. In one case, five provisional employees argued that a local jurisdiction refused to certify individuals from a complete employment list. The Board not only ordered that the employment list be activated but also made permanent appointments from the list. In the second case, an employee argued that the new

law requires a hearing prior to major discipline being imposed and that State appointing authorities had not adhered to this provision. Under the new law, the Board may provide interim remedies or relief in a pending appeal where warranted. Based upon the presentation of the case, the Board reinstated the employee until a decision was rendered. The old law did not provide for such interim relief.

COLLECTIVE NEGOTIATIONS UNITS

Equally important in protecting employee's rights has been the expanded role of collective negotiation units in the implementation process of Title 11A. The Department is currently developing procedures to more fully involve representatives of public sector unions and associations in matters that affect the bargaining unit employees. This procedure should eliminate concerns such as those that surfaced in the recent movement of certain titles to the non-competitive service. A commitment has been made to ensure that management and labor are informed to the extent feasible about new programs prior to implementation. The Department's Labor Relations Office has an expanded role to enable the Commissioner to implement more efficiently the provision in Title 11A to assist in general work force planning, personnel matters and labor relations. The Labor Relations Office acts as an outreach to labor groups for improved communications.

Title 11A also allows the Commissioner to establish and consult with advisory boards representing political subdivisions, personnel officers and labor organizations. Through this mechanism, the Department provides an update on the implementation of civil service reform and seeks advice and comments from these boards regarding programs that will affect State and local employers and employees. In addition to consulting with the various boards, Department staff have made presentations on the changes in the law to employees and union officials. To help employees be aware of and understand how the new law affects them in their public career, both Title 11A and the rules are written in simple and clear language.

EMPLOYEE PERFORMANCE

In assessing the effect of Title 11A on employee performance, the Department reviewed the results of the performance evaluation system called Performance Assessment Review (PAR) that has been phased into use during the past two years.

Analysis of the previous State government appraisal system which was called Employee Performance Evaluation and Improvement System (EPEIS) showed that the process did not function effectively. Employee discontent with performance standards and appraisal, specifically with the narrowness of the developmental aspect of the system, was pervasive. The EPEIS had little to do with describing true performance and no clear definition of performance rating

categories. In addition, performance standards were noticeably omitted or, at best, unclearly stated and inconsistently applied. The implementation of plans for improvement of employee and organization needs was frequently lacking.

Given the above, the strengths of the new PAR system are in no small measure due to the fact that the system is dynamic and responsive to organizational needs. PAR, designed to be an evaluation system for assessing the performance of employees against specific standards, requires managers to define the relationship between the mission of the department and the assigned tasks of employees. PAR also requires managers to identify employee performance improvement needs. Finally, the system encourages managers to assist employees in formulating career development plans.

ADVISORY BOARDS

INTRODUCTION

The Civil Service Reform Act (Title 11A) authorizes the Commissioner of Personnel to establish and consult with advisory boards representing labor organizations, personnel officers and political subdivisions. The Boards were established in January, 1987, to assist the Commissioner in developing and implementing the Department's programs which affect over 180,000 public employees in State government and in the counties and municipalities that have adopted the New Jersey Merit Employment System. Following are reports on each of the established advisory boards including copies of the meeting agendas.

LABOR ADVISORY BOARD

In January, 1987, Commissioner Eugene McCaffrey, Sr., established a Labor Advisory Board. The membership was selected from among labor leaders that represent employees from State and local appointing authorities. The following appointments were made:

American Federation of State County & Municipal Employees (AFSCME), Council 1.	Robert Angelo, Executive Director
Civil Service Association (CSA)	Betty Lisovsky, State President
Communications Workers of America (CWA), Local 1038	Paul M. Alexander, President
International Federation of Professional & Technical Engineers (IFPTE), Local 195	Donald R. Philippi, Business Agent
Fire Fighters Association of New Jersey	Peter F. Smith, President
Policemen's Benevolent Association (PBA), Local 11	Thomas Murphy, President

The first meeting was held on February 5, 1987. All Board members agreed that meetings would be held every two months. Prior to each meeting, members of the Board are contacted on topics for the agenda. After the opening of each meeting, an update is provided on progress toward

implementation of Title 11A. Proposed rules are distributed to each of the Board members prior to the publication in the New Jersey Register. This allows the Board to provide comments and suggestions at an early stage in the regulation process.

Staff members from the Department have also spoken to the Board on matters which have an impact on the bargaining units. For example, programs for relocation assistance to State employees who are reassigned due to an operational phase-down were discussed. Prior to the adoption of a process for relocation assistance, comments were solicited from the Board. The Board was also provided an update of the Governor's Executive Order 145 regarding the conversion of special services. The Labor Advisory Board has provided the Commissioner with information from their membership on the status of how many employees have been converted. Other areas of discussion included the promotional process of State and local employees, reducing the number of provisional employees and the role of the Department's Labor Relations Office. A few Board members had a concern with the excessive amount of time it took to have a disciplinary appeal heard by the Office

of Administrative Law. Measures were taken to reduce the waiting period.

Comments from the Board members are attached.

**AGENDA
LABOR ADVISORY BOARD**

FEBRUARY 5, 1987 10:30 A.M.

- o **Welcome - Commissioner Eugene J. McCaffrey, Jr.**
- o **Committee Procedures**
- o **Update on Implementation of Title 11A - Deputy Commissioner
Robert Hartman**
- o **Role of the Labor Relations Office - Herbert Hall**
- o **Rule Revisions - Assistant Commissioner Peter Calderone**
- o **Comments**

AGENDA

LABOR ADVISORY BOARD

FRIDAY, JUNE 26, 1987 10:00 A.M.

- o Opening - Commissioner Eugene J. McCaffrey, Sr.
- o Update on Implementation - Deputy Commissioner Robert Hartman
- o Promotional Exam Process - Past and Present -Herbert Hall
- o Appeal of Minor Discipline Form - Denise Coyle
- o Comments - Proposed Rules Chapter 8 (Layoffs) and Chapter 10
(violations and Penalties) -
Assistant Commissioner -
Peter Calderone

LABOR ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Robert Angelo

Name of Board Member

Executive Director AFSCME Council #1

Title/Affiliation

Accomplishments/Observations:

The Labor Advisory Board has proven to be an effective means of securing input from organized labor for the Department of Personnel. As a member of this Board I feel that I not only represented AFSCME members but all employees who are affected by the policies of the Department. Our meetings have been extremely productive and have served to provide the members with up to date information on the progress made with implementation of the Civil Service Reform Act.

The willingness of Department officials to seek, in good faith, the comments and criticisms of organized labor allows for a much more productive relationship which ultimately improves services to all citizens of New Jersey. If every branch of government was as open and interested with the welfare of New Jersey employees, the process would be much more democratic and fair.

Additional Comments:

LABOR ADVISORY BOARD
to the
Commissioner, Department of Personnel.

Report to the Legislature
September 1987

PAUL D. ALEXANDER
Name of Board Member

C. W. A.
Title/Affiliation

Accomplishments/Observations:

ALTHOUGH MEETINGS ARE REGULARLY HELD
AND COMMENTS ARE FREELY GIVEN, D.A.P. HAS YET
TO RESPOND TO ANY COMMENTS MADE BY ANY
LABOR ORGANIZATION.

Additional Comments:

LABOR ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Peter F. Smith
Name of Board Member

President Fire Fighters Assoc. of N.J.
Title/Affiliation

Accomplishments/Observations:

I believe the Labor Advisory Board to the Commissioner of Personnel has been an innovative creation of the Department of Personnel. It gives Labor Representatives the opportunity to discuss their views on how the Department should structure their regulations and implement them.

I know the Labor Advisory Board has given Positive input into the formulation of the new regulations and in some areas has shed new light and convinced the Department to re-think and in some cases change the Proposed Regulation.

Additional Comments:

In my opinion the Advisory Board is a giant step in the direction of improved Labor Management Relations.

LABOR ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Donald A. Philippi
Name of Board Member
Local 195 - I.F.P.T.E. - Bus. Mgr.
Title/Affiliation

Accomplishments/Observations:

- 1.) Lowered the number of provisionals 50%
- 2.) Eliminated over 600 titles not being used or obsolete
- 3.) Reviewed new rules and regulations--made comments at Advisory Board meetings and public hearings
- 4.) Improved testing procedures--including reducing the long waiting time for exams and introduced special exams
- 5.) Reduced and converted special services positions
- 6.) Introduced PIMS to reduce the processing time of personnel actions
- 7.) Reduced the backlog of time it took to have a disciplinary appeal heard and a decision reached at OAL
- 8.) Made recommendations for new major and minor disciplinary forms
- 9.) Submitted suggestions for re-location assistance for employees displaced by closings and phase-downs

Additional Comments:

No progress has been made concerning the Emergency Closing Policies of the State. Numerous grievances and complaints were filed last year after large snow storms and emergency road closings. Many employees worked and received no compensation while other employees stayed home and were paid.

LABOR ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Thomas Mursky
Name of Board Member

N.J.S.P.A.
Title/Affiliation

Accomplishments/Observations:

The PBA Law Enforcement Unit takes great pride in having a voice on Commissioner McCaffrey's Labor Advisory Board. It is especially gratifying to see two public safety unions on the Board. The New Jersey State PBA thank Commissioner McCaffrey and State government for providing us with a place to go for resolving problems. This is the first time any Executive Officer of this department has invited a labor group to be part of an advisory board. Although a lot of work lies ahead, there is a new era of confidence. We feel our goals will be easier to accomplish.

Additional Comments:

Civil Service Reform began the day Eugene McCaffrey, Sr. was appointed as Commissioner.

LOCAL GOVERNMENT ADVISORY BOARD

In February, 1987, Commissioner Eugene McCaffrey, Sr., established a Local Government Advisory Board. The members were selected from elected and appointed officials of county and municipal jurisdictions throughout the State. Several members also represent organizations of local government. The following appointments were made:

Richard H. Cummings	Business Administrator, City of Camden
John H. Fisher III	Administrator, Gloucester County
Michael C. Galuppo	Director, Union County Board of Social Services
Joseph J. Hoffman	County Clerk, Gloucester County
Gilbert W. Lugossy	President, County Officer Association of New Jersey
Henry Martinez	Council President, City of Newark
Ann A. Mullen	President, New Jersey Conference of Mayors
Paul J. O'Keefe	Freeholder, Union County
William E. O'Leary	Personnel Director, Middlesex County
Anne E. Rieker	President, New Jersey Association of Counties
John T. Terry	Township Manager, Township of Moorestown
Lewis N. Thompson	City Clerk, Millville
Lee S. Trumbull	Prosecutor, Morris County
Charlotte Vandervalk	Freeholder, Bergen County

The first meeting was held on March 26, 1987. It was agreed by all Board members that meetings would be held on a quarterly basis. After the opening of each meeting, an update is provided on progress toward implementation of Title 11A, and an opportunity for Board members, many of whom would have responsibility for local implementation of new programs, to comment. Members of the Board are provided with copies of

and/or suggestions prior to the publication of the rules in the New Jersey Register.

Commissioner McCaffrey consults this Board for advice on matters that impact on local government appointing authorities. For example, a demonstration project in progress in the Department's Camden Regional Office with the cooperation of several South Jersey appointing authorities was discussed with the Board and their suggestions invited. The results of a needs survey of all local appointing authorities were presented to Board members.

A 20-minute video tape produced for local elected officials to explain the Department's services was shown to the Board and their suggestions were incorporated into the final version of the tape.

The Board has been helpful with their comments on proposed rules. Members have indicated approval of the format of the new rule book, which clearly shows which provisions pertain to local government. Comments from Board members are attached.

AGENDA
LOCAL GOVERNMENT ADVISORY BOARD
Thursday, March 26, 1987

- o Welcome - Commissioner Eugene McCaffrey, Sr.
- o Committee Procedures
- o Update on Implementation - Deputy Commissioner Robert Hartman
- o Rules Revisions - Assistant Commissioner Peter Calderone
- o Comments

AGENDA
LOCAL GOVERNMENT ADVISORY BOARD
Thursday, June 11, 1987 - 10:00 a.m.

- o Opening - Commissioner Eugene J. McCaffrey, Sr.
- o Update on Implementation of Title 11A -
Deputy Commissioner Robert Hartman
- o Local Government Video
- o Local Government Overview - Director of County Municipal
Government Services,
Robert DeNicholas
- o Discussion of Rule Revisions - Chapters 1, 2, 5, 7, 8, 9
and 10
- o Project in the Camden Regional Office - Mary Ann Cannon,
Commissioner's Executive Task Force
- o Comments

AGENDA
LOCAL GOVERNMENT ADVISORY BOARD
September 3, 1987 10:00 a.m.

- o Opening - Commissioner Eugene McCaffrey, Sr.
- o Update on Implementation - Mary Ann Cannon
Thomas P. Gallagher
Eric Aronowitz
Dawn Landacre
- o Discussion of Proposed Rules
Chapter 6 (Leaves, Hours of Work and Employee Development) -
Assistant Commissioner Peter Calderone
- o Local Government Survey - Iris Mungin-Bey
Commissioner's Executive
Task Force Member

LOCAL GOVERNMENTS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Anne E. Rieker, Surrogate
Name of Board Member

President, New Jersey Assoc. of Counties
Title/Affiliation

Accomplishments/Observations:

Working with the Advisory Board to the Department of Personnel has been very satisfying because of the tremendous results being done with the Civil Service Statute for New Jersey. The effort to revamp the Code has been very successful. Instead of a band-aid approach the complete re-structureing has resulted in something for New Jersey to be very proud of. The reduction of the numbers of classifications and combining of similar/related catagories has certainly simplified the whole-operation of the system.

Also of importance is the ability, under the new statute, for local governments to administer their own personnel departments if they so desire. The State Department of Personnel is available to either assist in or to take-on the responsibility of the operation of any local government unit. The way that the Rules are written, it is easy to identify the State and Local related citations.

Additional Comments:

ommissioner McCaffrey and his staff are to be complimented on their excellent efforts and results.

LOCAL GOVERNMENTS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Joseph J. Hoffman

Name of Board Member
County Clerk

Title/Affiliation

Accomplishments/Observations:

The new rules and procedures as outlined under the new statutes are clear, practical, and in plain language.

Clear - each sub-chapter is distinctly set out.

Practical - repealing outmoded codes and cutting the volume.

Plain - plain english - using constructive, simple sentences with rules that are easily understood and applicable.

Additional Comments:

Commissioner McCaffrey is to be commended for the staff selection from his department and also the loaners from other commissions whose expertise in their fields meant so much in guiding and implementing the new code as it is today.

LOCAL GOVERNMENTS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

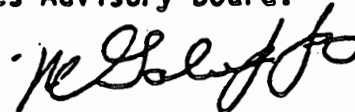
Michael Galuppo
Name of Board Member

Director, Union County Board of Social Services
Title/Affiliation

Accomplishments/Observations:

When I chaired the Personnel Committee of the County Welfare Directors' Association, I came in frequent contact with a number of administrative personnel of the Department of Personnel. I was always impressed by their ability, knowledge and willingness to assist our association in matters dealing with personnel. While we did not always agree, they were there to respond and assist.

When I was appointed to the Local Governments Advisory Board, I was confident in the knowledge (based on past experience) that the staff entrusted with the task of reviewing and revising regulations that have been existence for many years would be equal to the task. That confidence has been reinforced by my actual participation in the Local Governments Advisory Board.



Additional Comments:

LOCAL GOVERNMENTS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

John Terry
Name of Board Member

Township Manager - Moorestown, NJ
Title/Affiliation

Accomplishments/Observations: ACCOMPLISHMENTS

Attended two Local Government Advisory Board Meetings March 26, and June 11 in Commissioner McCaffrey's Conference Room where the Advisory Board was briefed on the implementation of Title II A, Draft Rule Revisions, and other innovative projects commenced by the Commissioner's Executive Task Force. I appreciated the opportunity to participate in these discussions, and to make recommendations on the Draft Rule Revisions.

Attended June 30, 1987 Department of Personnel briefing on a new approach to job analysis, including title consolidation, specification development, compensation, and how these components relate to the examination process.

Solicited input from the NJ Municipal Management Association, through the Association Newsletter on member's concerns with the Civil Service Reform Act and implementation of Title II A. Most concerns raised involved selection, appointment and classification issues.

OBSERVATIONS

Civil Service Reform is a monumental task, and I have been particularly impressed with the enthusiasm and expertise of the Commissioner and the Task Force he has assembled for implementation. As I see it, changing old attitudes will be the most difficult part of the process, both internally with Department of Personnel employees, and externally with the local governments the Department interacts with. In the past, local governments expected delay, obstruction, and frustration in their dealings with the Department. The prospect of a different and more positive relationship is exciting.

It is difficult as an Advisory Board Member to know exactly where to grab onto the various issues involved. Perhaps the Task Force or staff could pinpoint or identify specific areas where input from the Advisory Board is needed, or where options are possible and discussion advisable. Circulating any written comments received from Advisory Board members might be helpful in generating participation or ideas.

LOCAL GOVERNMENTS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

<u>Lewis Thompson</u>	
<u>Name of Board Member</u>	
City Clerk, Millville, NJ	
President, Municipal Clerks' Association	
<u>Title/Affiliation</u>	<u>NJ, Inc.</u>

Accomplishments/Observations:

The Local Government Advisory Board has been provided with the necessary details and sources of professional expertise to recommend revisions to rules and regulations and work with the commissioner to accomplish this task. Consolidation of cumbersome rules and regulations have been made with clarity and understanding as the key objective. Positive steps have been made to expedite promotional procedures, minimize paper work and to consolidate numerous job titles which in turn is beneficial to both local and state government. Uniform policies have been established for both local and state government and computerization of personnel files has been accomplished. The diversified membership of the Advisory Board has enabled us to have representative discussions in all areas of government affected by Civil Service with positive results. We have performed a detailed review and analysis of past policies and statutes regarding testing, recruitment and certification and made analysis of public relations, public awareness and a means to enhance new and innovated means of recruitment. The commissioner and his staff have reduced the complexity of the rules and regulations and have provided logic and continuity.

Additional Comments:

The commissioner has developed a modernized, professional and responsive Department of Personnel with full compliments of what constitutes the definition of human resources. The current transition period has seen numerous accomplishments to date and the positive steps toward achieving the goals Commissioner McCaffrey has established will ensure the completion of this noteworthy project

Local Government Advisory Board
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Lee S. Trumbull
Name of Board Member

Prosecutor of Morris County
Title/Affiliation

Accomplishments/Observations:

Observations:

1. Board members appear to have been carefully chosen so as to provide input to the Commissioner from an appropriate cross-section of the entities that his department services.
2. The Board members (as opposed to their designees or substitutes) have been in attendance at the meetings held to date and have enthusiastically participated in the discussions.
3. The Commissioner's staff has distributed discussion materials prior to each meeting in a timely fashion allowing for appropriate review and meaningful discussion at the meetings.
4. The meetings themselves are well organized, begin promptly and have completed the established agenda.
5. The Board members appear to interact in a positive way with each other and with the Commissioner and his staff.
6. There is a sense that the Commissioner and his staff are engaged in a bonafide effort to provide for a "User Friendly System

Accomplishments

1. We have received updates on the implementation of the Civil Service Reform Act.
2. We have reviewed and discussed Chapters 1, 2, 5, 6, 7, 8, 9, and 10 of the proposed rules for title 4A.

Additional Comments:

Service on this Board provides me with an excellent opportunity to indicate to the Commissioner directly what we county prosecutors confront by way of personnel problems in our offices and how we feel he can assist us.

PERSONNEL ADVISORY BOARD

In January, 1987, Commissioner Eugene McCaffrey established a Personnel Advisory Board consisting of the State personnel officers. The following appointments were made:

Agriculture	Donna H. Beiger
Banking	Maryann Black
Commerce & Economic Development	Stephen McPhillips
Community Affairs	Gregory B. Vida
Corrections	Dennis M. Salamandra
Defense	Major William S. Sage
Education	Henry Carlesimo
Environmental Protection	Ronald S. Tuminski
Health	Dennis A. Spundarelli
Higher Education	Sandra Horan
Human Services	Lawrence E. Donahue
Insurance	Edward Troy
Labor	Edwin R. Gniewkowski
Law & Public Safety	Thomas R. Barber
Personnel	Edward S. Nelson
Public Advocate	John DeVaney
Public Utilities	Julia Morgan
State	Milton Lewis
Transportation	Natalie P. Havran
Treasury	John Polios

The Board meets on a quarterly basis and the first meeting was held on February 19, 1987. After the opening of each meeting a presentation on the progress of implementation of Title 11A is provided. This presentation is important to the Board members because they will be responsible for administering new programs and complying with the rules and

regulations of Title 11A. The Board is encouraged to provide any comments and/or suggestions. The proposed rules are distributed to all of the Board members prior to the publication of the rules in the New Jersey Register.

The Board is also informed of matters which impact on the administration of personnel practices. An example is the movement of competitive titles to the non-competitive service. The Board was provided copies of a settlement agreement reached between the State and labor unions on this matter. It was explained to them how to handle the processes required to implement the settlement agreement. Another agenda item was the Governor's Executive Order 145 on conversion of special services. It was important to discuss the guidelines of converting special services and to provide any assistance the Board members needed to implement the Executive Order. Other topics of discussion were relocation assistance, salary regulations, and the concept of a personnel training program. The Board has been helpful in identifying problems and suggesting remedies to the Personnel Management Information System (PMIS) during its initial months of operation. Representatives from OMB and OTIS have joined the Department

of Personnel staff periodically at Board meetings to address interdepartmental and systemic concerns.

Comments were received from Board members which indicated that a closer relationship has developed between the State personnel officers and the Department of Personnel. One of the members commented that "State Government should realize the tremendous benefit of an interchange and exchange of knowledge between the various departments." Additional sample comments are attached.

AGENDA
PERSONNEL ADVISORY BOARD
FEBRUARY 19, 1987 10:00 A.M.

- o Welcome - Commissioner J. McCaffrey, Sr.
- o Update on Implementation of Title 11A - Kerry M. Perretta
Chief of Staff
- o Rule Revisions - Peter J. Calderone, Assistant Commissioner
- o Break
- o Special Services - Executive Order 145
- o Comments

AGENDA
PERSONNEL ADVISORY BOARD
THURSDAY, MAY 14, 1987 10:00 A.M.

- o Opening - Commissioner Eugene J. McCaffrey, Jr.
- o Update on Implementation of Title 11A - Deputy Commissioner
Robert Hartman
- o Relocation Assistance - Herbert Hall
- o Reallocation of Titles to the Non-Competitive Service
- o Rule revisions Chapters 1,2,5,7 and 9 -
Assistant Commissioner Peter Calderone
- o Comments

AGENDA
PERSONNEL ADVISORY BOARD
JULY 30, 1987 10:00 A.M.

- o Opening - Commissioner Eugene J. McCaffrey, Sr.
- o Update of Implementation - Deputy Commissioner
Robert Hartman
- o Salary Regulations - John DeVaney, Personnel Officer
Public Advocate
- o The Personnel College Concept - Joseph Delate
- o Discussion of Proposed Rules - Chapter 8 (Layoffs)
Chapter 10 (Violations and
Penalties) Assistant
Commissioner, Peter Calderone

PERSONNEL OFFICERS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Edwin Gniewkowski
Name of Board Member

Assistant Director, Personnel & Training
Title/Affiliation Department of Labor

Accomplishments/Observations:

The Personnel Officers Advisory Board brought together key staff involved with the administration of the State's Merit System. The opportunity for this group to meet on a regular basis is unprecedented. A much closer relationship between personnel officers and the Department of Personnel is being established. Better insights into the new law and rules was made possible through communications with high level staff of the Department of Personnel. Input to the drafting of the new rules has been encouraged.

Additional Comments:

Meetings should be longer. Experience has been that it has been difficult to complete the entire agenda.

PERSONNEL OFFICERS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Thomas Barber 
Name of Board Member

Employee Services Director
Title/Affiliation

Accomplishments/Observations:

Denise Coyle
Office of the Commissioner
Department of Personnel

I have been extremely pleased to be a part of the Personnel Advisory Board. We have been able to discuss problems and successes occurring in the area of Human Relations. Some examples I would like to point out are as follows: the Personnel College, PMIS remedies, Special Services conversions and Salary Adjustment Requests. This has proven to be a viable vehicle in pulling the Department of Personnel together with the other executive departments.

The only criticism that I might have is that perhaps we should meet on a monthly basis as opposed to bi-monthly.

c: Deputy Directors McKeever & Paulus
Administrator O'Reilly
Joe Delate

Additional Comments:

PERSONNEL OFFICERS ADVISORY BOARD
to the
Commissioner, Department of Personnel

Report to the Legislature
September 1987

Julia Morgan
Name of Board Member

Personnel Officer
Title/Affiliation

Accomplishments/Observations:

As a member of this Board, first I must say how pleased I am of their idea of all personnel heads coming together to personally meet and discuss issues with the Commissioner of Personnel and some of his head staff personnel as well as those from other State agencies.

During the meetings that we have had, many topics have been discussed and committees formed to look into personnel matters. We have been able to make some inroads into very pressing matters, and I look forward to the months ahead.

Additional Comments:

MANAGEMENT INFORMATION SYSTEM

11A: 2-11 Powers and duties of the Commissioner.

The Commissioner:

- c. Shall maintain a management information system necessary to carry out the provisions of this title.

A large portion of the functions of the Department of Personnel deals with the processing of information. This information is voluminous: 12,000 titles; 250,000 applicants per year; 180,000 employees; 150,000 employee transactions per year; 10,000 examination announcements per year; 4000 examinations per year. Only a small portion of the process is automated; most of it is manual. A ten year old examination system, a partially-implemented employee records/transaction system for State and local staff, and a new test generation system are the only automated systems presently functioning within the Department. The Civil Service Reform Act provided the Department with an opportunity to plan for the future and incorporate suggested changes for the functioning of the Department into an Information Planning Document. An eight-week intensive study of the information processing problems and possible solutions to these problems was made with the assistance of the Office of Telecommunications and Information Systems (OTIS).

The result of this study was a five year plan which prioritized and scheduled the implementation of eight major information processing systems:

- o Classification system, which would automate many of the classification and compensation functions.
- o "Request to Fill" (HUB) system which would enable appointing authorities to obtain names to fill vacant positions.
- o Modernization and rewrite of the examination system.
- o Enhancement of the automatic test generation system (ATG).
- o Enhancement of the employee records/transaction system (PMIS).
- o Information bases for training and the automation of scheduling.
- o Information bases for appellate practices system.
- o Integrated database for inquiry by analysts and management of the Department of Personnel.

The first five of these systems are to be designed and developed in fiscal year 1989. The remaining three are to be implemented in fiscal year 1990. The integration of these five systems into the Department is shown in Figure 2.

Four of these systems receive input from outside of the Department: the classification system, the examination system, the "request to fill" system, and PMIS (Personnel Management Information System).

OVERVIEW OF PROPOSED SYSTEM

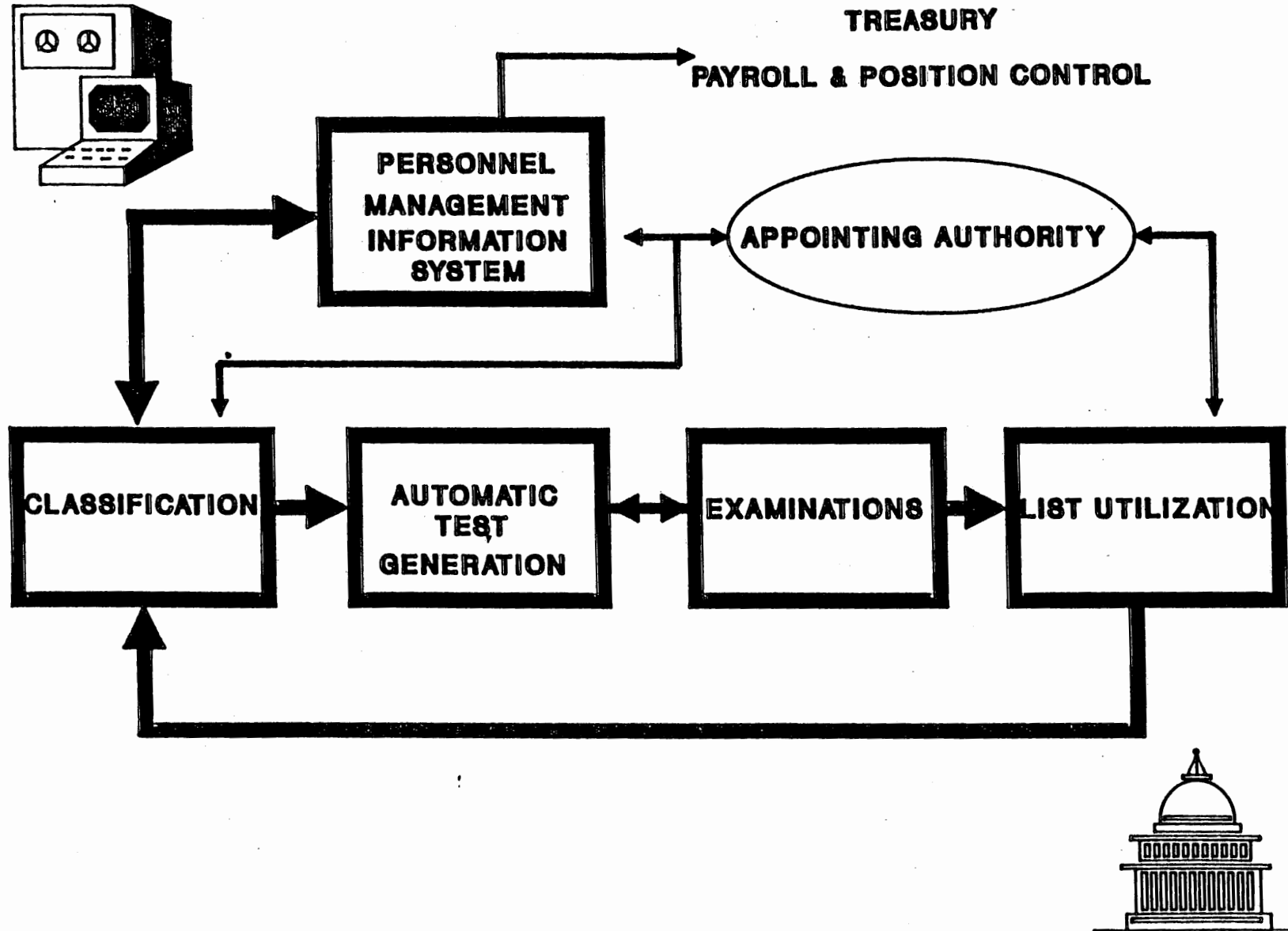


Figure 2

The classification system will receive information on titles. Based on this information, classification decisions will be made, specifications developed, compensation set and information for examination generation produced. The classification system will interface with PMIS and the automatic test generation system. It will transfer title information to PMIS (e.g., title and compensation information), and examination development information to the automatic test generation system (ATG). The ATG system will produce the test and interface with the examination system for scheduling and scoring of examinations.

The examination system receives outside input through applications from job candidates and response to examinations from test candidates. The output from this system will be test scores fed back to the ATG system to evaluate the test and set passing scores. Also, the list of certified eligibles will be generated by the examination system, which will be input to the "request to fill" system. The system will have an on-line inventory of eligible lists for titles.

The outside input to the HUB system will be from State and local appointing authorities using the Customer Service Representatives to request eligibles to fill vacancies. The output of the system is certified eligibles and the status of the

lists fed back to the classification system to forecast future eligible list needs.

This is a completely integrated system serving the major operations of the Department: classification, compensation and selection. The major purpose of this system is speed of delivery of services and, as a consequence, a reduction of provisionals. These systems are presently undergoing feasibility studies which are scheduled to be completed before the end of the calendar year.

In addition to major systems development, some management of the present systems has been revised to include a new work request and data access request system which is designed to control and expedite the amount of access to and work requested of the current computer system within the Department. New management systems for large and small projects have been implemented within the Department.

Finally, in terms of productivity, microcomputer-based processing systems are being tested in some experimental programs to determine their feasibility in a fully developed group, a "rapid response" team for unanticipated needs of appointing authorities. The applicability of microcomputer systems to increase the productivity of intra-departmental tasks is also being explored.

RULES TO CONFORM
WITH PROVISIONS OF TITLE 11A

11A:2-11. Powers and duties of the Commissioner.

The Commissioner:

- p. Shall recommend rules to the board for the implementation of this title.

The development of a body of rules to conform with Title 11A and to implement the recommendations of the Task Force is central to Civil Service reform. The former Title 4 of the New Jersey Administrative Code was often confusing, poorly written and inflexible. The Reform Law established a personnel system designed to take New Jersey into the 21st century; the new rules are flexible enough to permit it.

The new rules, found in a new Title 4A of the Administrative Code, are contained in 10 substantive chapters, which mirror the structure of Reform Law and apply to both State and local service, unless specifically stated to the contrary. However, to increase the ease with which the new rule book can be used and to save staff time, those rules which apply to State service only, will be labeled. There will also be a separate index to identify these rules.

The least burdensome approach for appointing authorities and employees was to phase-in the rules in four stages:

- Phase I - Basic Rules and Departmental Organization (Chapter 1), Appeals, Discipline and Separations (Chapter 2), Veterans Preference (Chapter 5), Equal Employment Opportunity/Affirmative Action (Chapter 7) and Political Subdivisions (Chapter 9).
- Phase II - Layoffs (Chapter 8) and Violations and Penalties (Chapter 10).
- Phase III - Leaves, Hours of Work and Employee Development (Chapter 6).
- Phase IV - Classification, Services and Compensation (Chapter 3) and Selection and Appointment (Chapter 4).

An in-depth review of the old rules was conducted, not only to determine what technical changes should be made, but also to determine where the rules needed substantive revisions and simplification. Once the drafts of the new chapters were prepared, a review, unprecedented in the annals of rule making, was conducted. All of the stakeholders, including management and labor representatives, were afforded the opportunity to comment and suggest changes to the proposed rules. Included in this effort were the statutorily created advisory boards, the Office of the Governor, the Attorney General, the Task Force, The Affirmative Action Officers Council, the Department of Personnel's Rules Committee and the departments of the executive branch via an electronic conferencing network.

Each of the numerous comments received was carefully considered and changes made where appropriate. Thereafter, the proposed rules were submitted to the Merit System Board for approval and published in the New Jersey Register. Public comment was elicited and public hearings conducted in locations throughout the State. Prior to final adoption, all comments received were considered and additional changes were made where warranted.

As of September 25, 1987, 8 of the 10 Chapters of the new Title 4A have been approved in proposal form by the Merit System Board, five of which have been adopted (see appendix). Public hearings have been held on the 7 chapters that comprise Phases I and II. Chapter 6 will be published in the October 5th Register, with the public hearings being conducted shortly thereafter. The rules which encompass the final phase will be ready for publication in the Register shortly thereafter.

While the changes made by the new rules are too voluminous to set forth in detail, some of the more significant changes are highlighted below.

Chapter 1 reduced the length of the former rules by over 50%, while incorporating three rules on new areas of activity

authorized by the Reform Law: delegation, consolidation of personnel functions in State government and pilot programs. Chapter 2 provides added procedural and substantive safeguards for employees who are faced with major disciplinary actions. An appeal procedure is also created for employees who claim they have been subject to reprisals for disclosing information about governmental abuses, and for employees who allege that they have been the victims of political coercion. This chapter also expands the Merit System Board's authority to award back pay, benefits, seniority and interest.

Chapter 3 includes rules for the Senior Executive Service and classification rules designed to reduce and prevent further growth in the number of job titles. The selection and appointment rules contained in Chapter 4 permit the Department of Personnel to respond to and even anticipate the needs of appointing authorities for qualified employees. Innovative methods for recruitment, testing and uses of lists are provided to reduce the length and number of provisional appointments. Chapter 5 sets forth the eligibility and procedural requirements for obtaining veterans and disabled veterans preference.

The emphasis which the Reform Law placed on training programs, career mobility and employee development is

incorporated in Chapter 6, with the requirement that all State departments and agencies prepare a human resource development plan. Chapter 7 concisely presents the rules concerning equal employment opportunity and affirmative action, without weakening the commitment to these principles. Chapter 8 simplifies the layoff procedures, while setting forth various alternatives that an appointing authority may use to minimize the impact of a layoff. These alternatives include granting leaves of absence without pay for a maximum of one year to permanent employees without loss of seniority; allowing voluntary reductions in work hours by employees, including jobsharing; and allowing employees to accept temporary demotional or lateral title changes for a maximum of one year.

Chapter 9 provides guidance to those political subdivisions which come under the Title 11A umbrella by adoption of referenda, consolidation of governmental functions or legislation. Chapter 10 provides the Commissioner of Personnel and the Merit System Board with a broad range of enforcement mechanisms that can be tailored to any set of circumstances, to deal with violations of the Reform Law, the rules or an order of either the Commissioner or Board. Chief among these is the ability to hold an appointing authority accountable for failure to use an employment list when the appointing authority initiated the examination process.

The new Title 4A of the Administrative Code is written in plain, clear and concise language. The rules are logical and easy to understand; descriptive charts are included in the appendix to this report. A comprehensive and easy-to-use index is being prepared, as is an appendix, which will provide model forms and other clarifying material, not available in the old Title 4. The new rules will have an immediate and positive impact on State and local appointing authorities, as well as the 180,000 employees who are subject to Title 11A.

RECRUITMENT

One area of concern that emerged from this year long study was recruitment, a vital part of the mission of a personnel management agency. To select and place qualified applicants, one must first find them.

The Department of Personnel receives over 250,000 applications for announced examinations each year. However, a study of a representative 1,000 applicants for twenty titles revealed that 200 were not qualified, 300 did not show up for the exam, 175 failed the exam and an additional 100 who passed did not respond to the certification. Of the original 1,000 applicants, 225 interested eligibles remained to fill vacancies in twenty job titles throughout the State.

A second concern that surfaced was that these job applicants came largely from the ranks of employees already on the public payroll. Lastly, it appeared that while present recruitment efforts were successful for jobs with little or no minimum requirements, these efforts were much less successful at targeting the best candidates for professional level jobs requiring years of experience.

A decision was made to:

- o Change the recruitment message
- o Target where the message is sent
- o Expand the media used to transmit that message.

JOB OPPORTUNITIES BULLETIN

For thirty years, the sole recruitment vehicle of New Jersey's central personnel agency has been the Job Opportunities Bulletin (JOB), a cumbersome production of overly detailed job opportunities that requires three to four months to produce. Factually correct, its format has remained less than appealing; its language of "residency requirements" and "jurisdictions", foreign to the uninitiated; its layout, confusing.

A new Job Opportunities Bulletin, now on the drawing board, will be a manageable size, and will highlight the benefits of public service rather than the penalties for mistakes in an application; the new Bulletin will invite the casual reader - or job seeking chemist or cook - to explore the job opportunities listed inside. There, the reader will find explanation of unfamiliar terms and a layout designed to simplify reading a job announcement or completing an application.

Presently, 90,000 copies of the JOB are mailed each month to the Department's regional offices, local Job Service Centers, libraries, appointing authorities and a variety of individuals and organizations.

The mailing list has been reviewed and is being expanded to target likely applicants. For example, nursing titles are consistently hard-to-fill and suffer frequent turnover. The mailing list will now include schools of nursing, hospitals and State and local associations of nurses. Other professional organizations and schools will be added so that notice of vacancies for engineers and accountants will reach these groups.

EXPANDED RECRUITMENT STRATEGIES

A battery of additional recruitment measures are receiving attention. Easy-to-read, specially colored inserts were used in the bulletin for a three month trial to attract interest in a series of traditionally hard-to-fill titles. Public service announcements, focusing on the targeted titles, were prepared and submitted for broadcast on the Cable Television Network of New Jersey which reaches 1.2 million viewers on 36 stations. Similarly, radio public service announcements were sent to 98 targeted stations throughout the State. Applicant response was unprecedented, showing a 300% improvement in some categories. Several additional public service announcements have been produced and forwarded to New Jersey radio and cable TV stations, including one announcing a walk-in test for Family Service Specialist III that drew almost 500 applicants. New displays were produced, including the recruitment videos and featuring the benefits of careers in public service, for use at

college job fairs, the New Jersey State Fair and other public events.

Long-term planning will emphasize joint efforts with appointing authorities to develop recruitment strategies for targeted titles and follow-up to identify successful strategies.

Improvements in the areas of recruitment reflect a departmentwide determination to improve service to appointing authorities, applicants, and the tax paying public.

**SERVICES TO
POLITICAL SUBDIVISIONS**

Title 11A allows more flexibility for the 600 local merit system jurisdictions in the selection process and in human resource performance development and training. To fully involve local appointing authorities in the implementation process, Department staff made presentations to organizations of local elected and appointed officials to explain the changes contemplated by Title 11A, the planned service improvements and the new rules that would affect local jurisdictions. Articles describing the provisions of civil service reform appeared in publications targeted for local officials. County and municipal officials participated in the numerous ad-hoc committees working in such areas as job analysis, training and internships. A 20-minute video was produced to explain present and prospective operating procedures and the benefits of participation in the merit system to local officials. In short, every effort was made to include local users of the merit system in planning change in procedures and policies and to emphasize the Department's role in terms of service, rather than merely regulation.

SURVEY OF LOCAL APPOINTING AUTHORITIES

In an effort to solicit local government appointing authorities' opinions on the quality of the present system and need for additional services from the Department of Personnel, a survey was designed and distributed to 600 local government appointing authorities (see appendix). The survey covered such areas as:

- o Rating the service delivery in the Department of Personnel Regional Offices on accuracy, timeliness and courtesy.
- o Need for further information, training or assistance.
- o Knowledge of the merit system personnel practices within the local government jurisdiction.
- o Willingness to accept various delegated responsibilities.
- o Open comments.

Approximately 50% of the surveys were returned. Responders offered views on the titles used in the merit system, compensation, rules, examinations, operating procedures and automation, in addition to the above.

Responses indicated a need for titles that are consistent with present technology and accurately describe the job itself, a situation that should be improved by results of the Job Analysis Project described previously.

Appointing authorities expressed an interest in and need for the following training, information or assistance:

- o Human resources development, evaluation, and incentives for better job performance
- o Examination processes
- o Affirmative action planning and training
- o Compensation planning
- o Drafting of a personnel manual
- o Progressive discipline documentation
- o Personnel records management
- o Development of grievance procedures
- o Classification of positions
- o Appeals process
- o Recruitment

The open comments section included responses from nearly half of those replying and covered the following:

- o Automation of personnel records
- o Titles
- o Training needed
- o Service from the Regional Offices
- o Compensation
- o Rules
- o Provisional incumbents
- o Examinations
- o Procedures for interfacing between the Regional Offices and the local jurisdictions
- o Delegation
- o Option to withdraw from the merit system

Comments on the automation of personnel records concentrated on how individual local personnel records systems could be tied into the automated system in the Regional Offices, alleviating a need for transferring paper documents and maintaining voluminous files.

A significant number of respondents indicated dissatisfaction with the present title structure and accompanying specifications. High marks were given to changes in the Job Opportunities Bulletin and the expanded use of education and experience assessments. Respondents were positive in describing their interactions with regional office staff. The establishment of a Customer Service Operation described elsewhere herein is expected to increase the speed and flexibility of service to all local appointing authorities.

Perhaps the most significant indication of increased focus on the needs of local appointing authorities is the role played by the Local Government Advisory Board. Local government officials are encouraged to use this Board as a conduit for their concerns with merit system operations and regulations.

Because of the initial and continuing involvement of local government representatives, changes resulting from civil service reform implementation are being carefully evaluated for their effect on the 110,000 employees in the county and municipal governments operating under the merit system.

HUMAN RESOURCE DEVELOPMENT

11A.2-11. Powers and duties of the Commissioner.

The Commissioner:

- f. Shall establish and supervise the employee performance and evaluation procedures
- g. Shall develop programs to improve efficiency and effectiveness of public service including but not limited to employee training development assistance and incentives
- j. Shall provide for a public employee interchange program pursuant to the Government Employee Interchange Act of 1977 and may provide for an employee interchange program between public and private sector employees
- k. May establish an internship program

Title 11A enumerates programs to be established to ensure that the State's mission and goals are carried out effectively and efficiently through a trained and skilled workforce. The programs described in this section were addressed by a group of employee volunteers from State, local and county government as well as employees from the private sector. Committees in each subject area researched the current status of the federal government, private

industry and other states around the nation in employee development. This data base provided basic information and, combined with the personal experience of committee members, afforded the opportunity to understand broad and diverse applications of such programs. Subject areas were as follows: Career Development, Internships, Interchange, Training, Performance Appraisal, Employee Advisory Service and Awards.

One of the prime learning experiences derived from the committee work was that many departments have already begun to conduct employee recognition programs. In addition to the Awards Program within individual departments, agencies are encouraged to establish recognition programs in such categories as "perfect attendance", "customer service", "employee of the year", or "workgroup of the month." Committee research revealed that New Jersey was in the forefront of such programs as its performance appraisal system.

Selected recommendations in human resources development are as follows:

- o Via a statewide human resource development function assist in research and development for agencies, serve as a central resource for HRD; make available physical plant services, facilities, equipment and programs, coordinate the use of all departments' appropriate media equipment; and develop and provide particular training at the request of appointing authorities.
- o Assist departments and agencies in coordinating a program for employees seeking career changes and those affected by job displacement.
- o Provide technical assistance and consultation to agencies in all facets of design, delivery and evaluation of HRD programs.

- o Design and deliver, in conjunction with an HRD Committee, certification programs in human resource management for the personnel community and human resource development for the credentialing of trainers.
- o Implement programs that allow employees to move to new assignments or career opportunities through participation in academic education, employee interchange, internships, apprenticeships, and/or specific training courses.
- o Improve the management of government through an Interchange Program to share experience, communication and learning among public, private and academic organizations.
- o Develop internship programs in government agencies for full-time students of participating accredited institutions of higher learning.
- o Provide fellowships in managerial assignments to individuals based on established educational and career achievements.
- o Establish internship programs with specific goals of providing affirmative action and upward mobility.

By combining the best ideas from career development and internship programs, as well as viable interchange programs including private sector exchanges, employees with the greatest potential and motivation will have enhanced opportunity to contribute and be rewarded.

APPENDIX

RULES ADOPTED
BY
MERIT SYSTEM BOARD
ON
SEPTEMBER 9, 1987
TO TAKE EFFECT
ON
OCTOBER 5, 1987

CHAPTER 1 - BASIC RULES AND DEPARTMENT ORGANIZATION

SUBCHAPTER 1. PURPOSE, SCOPE AND DEFINITIONS

4A:1-1.1 Purpose

The purpose of these rules is to establish a personnel system that provides a fair balance between managerial needs and employee protections for the effective delivery of public services*[.]* *consistent with Title 11A, New Jersey Statutes. See N.J.S.A. 11A:1-2.*

4A:1-1.2 Scope, applicability and invalidation

- (a) All appointing authorities and employees subject to Title 11A, New Jersey Statutes, shall comply with these rules.
- (b) These rules shall apply only to the career service unless otherwise specified.
- (c) These rules shall be considered the means by which the statutory purposes of the merit employment system are carried out. *[Whenever the Commissioner or Board find that strict adherence to these rules would result in injustice, unfairness or inconsistency with the overall objectives of the merit system, they may, in their discretion, relax these rules in order to effectuate the purposes of Title 11A, New Jersey Statutes.] *The Commissioner or the Board may relax these rules for good cause in a

particular situation, on notice to affected parties, in order to effectuate the purpose of Title 11A, New Jersey Statutes.*

(d) If a rule or part of a rule is declared invalid for any reason, the remainder of the rules shall not be affected by such determination.

4A:1-1.3 Definitions

The following words and terms, when used in these rules, shall have the following meanings unless the context clearly indicates otherwise:

"Appointing authority" means a person or group of persons having power of appointment or removal.

"Appointment" means the offer*_* *[and]* acceptance *and commencement* of employment.

"Base salary" means an employee's rate of pay exclusive of any additional payments or allowances.

"Board" means the Merit System Board.

"Career Service" means those positions and job titles subject to the tenure provisions of Title 11A, New Jersey Statutes.

"Certification" means a list of names presented to an appointing authority for regular appointment.

"Class code" means a designation assigned to job titles in State Service with ranking based upon an evaluation of job content.

"Commissioner" means the Commissioner of Personnel.

"Days" means calendar days unless otherwise specified.

"Demotion" means, in local service, a reduction in title, and in State service, a reduction in class code.

"Disposition" means the written report of actions taken by an appointing authority regarding a certification.

"Eligible list" means a roster compiled or approved by the Department of Personnel of persons who are qualified for employment or reemployment.

"Fine" means a disciplinary penalty which requires the payment of money or the performance of service without pay or at reduced pay.

"Immediate family" means an employee's spouse, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives residing in the employee's household.

"Layoff" means the separation of a permanent employee from employment for reasons of economy or efficiency or other related reasons and not for disciplinary reasons.

"Local service" means employment in any political subdivision operating under Title 11A, New Jersey Statutes.

"Open competitive examination" means a test open to members of the public who meet the prescribed requirements for admission.

"Part time employee" means an employee whose regular hours of duty are less than the regular and normal workweek for that job title or agency.

"Permanent employee" means an employee in the career service who has acquired the tenure and rights resulting from regular appointment and successful completion of the working test period.

"Position" means the assignment of specific duties and responsibilities*[*]*
requiring the employment of one person.

"Promotion" means, in local service, an advancement in title, and in State service, an advancement to a title having a higher class code than the former permanent title.

"Promotional examination" means a test open to permanent employees who meet the prescribed requirements for admission.

"Provisional appointment" (PA) means employment in the competitive division of the career service pending the appointment of a person from an eligible list.

"Regular appointment" (RA) means the employment of a person to fill a position in the competitive division of the career service upon examination and certification, or the employment of a person to a position in the noncompetitive division of the career service.

"Removal" means termination of a permanent employee from employment for disciplinary reasons.

"Senior executive service" means *[appointments]* *positions* in State service designated by the Board as having substantial managerial, policy influencing or policy executing responsibilities not included in the career or unclassified services.

"State service" means employment for the State of New Jersey.

"Suspension" means temporary separation from employment for disciplinary reasons.

"Title" means a descriptive name that identifies a position or group of positions with similar duties, responsibilities, and qualifications.

"Title series" means titles involving the same kind of work and ranked according to level of difficulty and responsibility.

"Unclassified service" means those positions and job titles outside of the senior executive service, not subject to the tenure provisions of Title 11A, New Jersey Statutes or these rules unless otherwise specified.

"Working test period" means a part of the examination process after regular appointment, during which time the work performance and conduct of the employee is evaluated to determine if permanent status is merited.

4A:1-1.4 Petition for promulgating, amending or repealing rules

- (a) Any interested person may file a petition with the Commissioner to promulgate, amend or repeal a rule.
- (b) A petition must include the reasons for the request.
- (c) A petition for a new rule must include the substance or nature of the request, the proposed text of the new rule and the statutory authority under which the requested action may be taken.
- (d) A petition for an amended rule must indicate any existing text to be deleted and include any new text to be added.
- (e) The Commissioner shall, in writing, either deny the petition or approve the petition for processing.
- (f) Notice of the petition and the Commissioner's decision shall be filed with the Office of Administrative Law pursuant to N.J.A.C. 1:30-3.6.

SUBCHAPTER 2. RECORDS

4A:1-2.1 Department of Personnel access to appointing
authority records and information

Appointing authorities shall provide Department of Personnel representatives free access to their premises and to requested records and information.

4A:1-2.2 Public records

(a) The following Department of Personnel records shall be public:

1. An individual's name, title, salary, compensation, dates of government service and reason for separation;

2. Information on specific educational or medical qualifications required for employment;

[3. Final Notice of Disciplinary Action;]

[4.] *3.* Final orders of the Commissioner or Board; and

[5.] *4.* Other records which are required by law to be made, maintained or kept on file.

(b) Personnel records, except as specified above, are not public records and shall not be released other than to the subject employee, an authorized representative of the employee, or governmental representatives in connection with their official duties.

SUBCHAPTER 3. ORGANIZATION

4A:1-3.1 General

(a) The Department of Personnel is constituted as a principal State department consisting of the:

1. Commissioner of Personnel;
2. Merit System Board; and
3. Such subdivisions as the Commissioner may deem necessary.

4A:1-3.2 Commissioner of Personnel

(a) The Commissioner of Personnel shall:

1. Serve as chairperson of the Merit System Board;
2. Serve as the principal executive and request officer of the Department;
3. Maintain a management information system to implement Title 11A, New Jersey Statutes;

4. Establish necessary programs and policies for the State and local service;
5. Assist the Governor in personnel and labor relations;
6. Render final administrative decisions on appeals of classification, salary, layoff rights and State noncontractual grievances;
7. Establish and consult with advisory boards representing political subdivisions, personnel officers, labor organizations and other appropriate groups;
8. Make required reports to the Governor and Legislature;
9. Approve appointments in the State and local service; and
10. Perform such other duties as prescribed by law and these rules.

4A:1-3.3 Merit System Board

(a) The Merit System Board shall:

1. Hold a public meeting at least once each month, except August, at which three members shall constitute a quorum;

2. Render final administrative decisions on appeals except for those matters listed in N.J.A.C. 4A:1-3.2(a)6 or delegated to the Commissioner;

3. Adopt rules for implementing Title 11A, New Jersey Statutes*[,] *after public hearing. except that a public hearing shall not be required for the adoption of emergency rules. See N.J.A.C. 1:30-4.5 for Office of Administrative Law emergency rule adoption procedures.*

4. Interpret the application of Title 11A, New Jersey Statutes, to any public body or entity; and

[(e)] *5.* Perform such other duties as prescribed by law and these rules.

SUBCHAPTER 4. DELEGATION, CONSOLIDATION AND PILOT PROGRAMS

4A:1-4.1 Delegation to appointing authorities

(a) The Commissioner may delegate to an appointing authority one or more of the following functions:

1. Classifying and reclassifying positions;
2. Announcing examinations and collecting applications;
3. Administering examinations prepared by the Department of Personnel;
4. Implementing promotions upon waiver of competitive examination;
5. Certifying lists of eligibles; *and*

[6. Job analysis; and]

[7.] *6.* Other technical personnel functions.

(b) A delegation shall be in writing, designating the appointing authority representative who will be accountable for the delegation, and signed by the Commissioner.

*Appointing authority employees in carrying out delegated functions are also responsible

to the Department of Personnel in performing such functions.* *[It shall]* *The delegation memorandum shall* contain:

1. The functions to be delegated;
 2. The specific manner in which the delegation will be implemented;
 3. The Department of Personnel representative who will have primary responsibility for supervision of the delegation;
 4. The duration of the delegation, which in no event shall exceed three years, but may be renewed; and
 5. Provisions for appropriate notice advising of the delegation and stating the name, address and telephone number of the representative of the appointing authority and Department of Personnel employee to be contacted in case of complaints.
- (o) Department of Personnel staff may be assigned to assist in performing the delegated functions.
- (d) The Commissioner may cancel, modify or limit the delegation order at any time.
- (e) The following functions may not be delegated:
1. The construction of an examination;

2. Appeal decisions of the Department, Commissioner or Board; and

3. A function of the Board.

(f) In local service, the delegation must be approved by the affected appointing authority when the delegation requires substantial costs.

(g) The Department of Personnel will conduct appropriate audits of delegated functions.

4A:1-4.2 Consolidation *- State service*

(a) The Commissioner, in consultation with affected departments, may direct the temporary or permanent consolidation and coordination of personnel, training and related functions in the State service.

(b) A consolidation order may affect one or more State agencies and shall designate the functions to be consolidated.

(c) Consolidation may be directed for one or more of the following reasons:

1. An appointing authority has demonstrated inadequate or improper performance;

2. Economy or efficiency; or

3. Emergent situations.

(d) To effectuate a consolidated function, the Commissioner may transfer necessary employees, positions, funding and equipment to the Department of Personnel from other State departments.

4A:1-4.3 Pilot programs

(a) The Commissioner may establish pilot programs, not to exceed one year, outside of the provisions of Title 11A, New Jersey Statutes, and these rules.

(b) Pilot programs may include, but are not limited to, the following:

1. Recruitment and selection;
2. Classification; and
3. Job sharing.

(c) Appointing authorities that request a pilot program shall consult with affected negotiations representatives prior to submission of a proposal.

(d) A proposal for a pilot program shall be submitted to the Commissioner and include:

1. A description of the program;
2. The individuals affected by the program;
3. The duration of the program;
4. The anticipated benefits of the program;
5. A summary of appointing authority consultations with negotiations representatives; and
6. Such other information as required by the Commissioner.

(e) The Commissioner may accept, modify or reject the program and establish appropriate conditions.

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August 31, 1987

CHAPTER 2

APPEALS, DISCIPLINE AND SEPARATIONS

SUBCHAPTER 1. APPEALS

4A:2-1.1 Filing of appeals

(a) All appeals to the Commissioner or Board shall be in writing, signed by the person appealing (appellant) or his or her representative and must include the reason for the appeal and the specific relief requested.

(b) Unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have know of the decision, situation or action being appealed.

(c) The appellant must provide any additional information that is requested, and failure to provide such information may result in dismissal of the appeal.

(d) Except where a hearing is required by law or these rules, or where the Commissioner or Board finds that a material and controlling dispute of fact exists that can only be resolved by a hearing, an appeal will be reviewed on a written record.

(e) A party in an appeal may be represented by an attorney, authorized union representative or authorized appointing authority representative. See N.J.A.C. 1:1-5.4 for contested case representation at the Office of Administrative Law.

4A:2-1.2 Interim relief

(a) Upon the filing of an appeal, a party to the appeal may petition the Commissioner for a stay or other relief pending final decision of the matter.

(b) A request for interim relief shall be in writing, signed by the petitioner or his or her representative and must include supporting information for the request.

(c) The following factors will be considered in reviewing such requests:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm if the request is not granted;
3. Absence of substantial injury to other parties if the request is granted;

and

4. The public interest.

(d) The filing of a petition for interim relief will not stay the processing of the case.

(e) Each party must serve copies of all materials submitted on all other parties.

(f) See N.J.A.C. 1:1-12.6 for Office of Administrative Law interim relief rules.

4A:2-1.3 Adjournments

(a) Any party requesting an adjournment of a hearing or other review must establish good and sufficient reason for such request. Such reason may include, but is not limited to:

1. Unavoidable appearance by an attorney for a party in any state or federal court; or

2. Illness of a party evidenced by an affidavit and a doctor's certificate.

(b) Where an adjournment is found not to be for good and sufficient reason, the Commissioner or Board may impose a fine or penalty.

(c) See N.J.A.C. 1:1-9.6 for Office of Administrative Law adjournment rules.

4A:2-1.4 Burden of proof

(a) In appeals concerning major disciplinary actions, N.J.A.C. 4A:2-2.1 et seq., the burden of proof shall be on the appointing authority.

(b) In all other Commissioner and Board appeals, the burden of proof shall be on the appellant.

4A:2-1.5 Remedies

(a) Seniority credit may be awarded in any successful appeal.

(b) Back pay, benefits and counsel fees may be awarded in disciplinary appeals and where a layoff action has been in bad faith. See N.J.A.C. 4A:2-2.10. In all other appeals, such relief may be granted where the appointing authority has unreasonably failed or delayed to carry out an order of the Commissioner or Board or where the Board finds sufficient cause based on the particular case.

4A:2-1.6 Reconsideration of decisions

(a) Upon the receipt of a decision, a party to the appeal may petition the Commissioner or Board for reconsideration.

(b) A petition for reconsideration shall be in writing signed by the petitioner or his or her representative and must show the following:

1. The new evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or

2. That a clear material error has occurred.

(c) Each party must serve copies of all materials submitted on all other parties.

4A:2-1.7 Specific appeals

(a) For specific appeal procedures see:

1. Awards in State service (N.J.A.C. 4:4-3.6);
2. Classification (N.J.A.C. 4:1-6.5A);
3. Discipline, major (N.J.A.C. 4A:2-2.1 et seq.);
4. Discipline, minor (N.J.A.C. 4A:2-3.1 et seq.);
5. Discrimination in State service (N.J.A.C. 4A:7-3.2 through 4A:7-3.4);
6. Employment list removal for medical unfitness (N.J.A.C. 4:1-8.27);
7. Employment list removal for psychological unfitness (N.J.A.C. 4:1-8.26);
8. Examinations (N.J.A.C. 4:1-8.21);
9. Grievances (N.J.A.C. 4A:2-3.1 et seq.);

10. Layoffs in local service (N.J.A.C. 4:3-16.2);
11. Layoffs in State service (N.J.A.C. 4:2-16.2);
12. Overtime in State service (N.J.A.C. 4:6-8.1 et seq.);
13. Performance Assessment Review in State service (N.J.A.C. 4:2-20.2);
14. Reprisals (N.J.A.C. 4A:2-5.1 et seq.);
15. Resignations (N.J.A.C. 4A:2-6.1 et seq.);
16. Salary in State service (N.J.A.C. 4:2-7.1);
17. Sick leave injury in State service (N.J.A.C. 4:2-17.4); and
18. Supplemental compensation on retirement in State service (N.J.A.C. 4:2-26.12).

(b) Any appeal not listed above must be filed in accordance with N.J.A.C.

4A:2-1.1.

SUBCHAPTER 2. MAJOR DISCIPLINE

4A:2-2.1 Employees covered

(a) This subchapter applies only to permanent employees in the career service or a person serving a working test period.

(b) Appointing authorities may establish major discipline procedures for other employees.

4A:2-2.2 Types of discipline

(a) Major discipline shall include:

1. Removal;
2. Disciplinary demotion;
3. Suspension or fine for more than five working days at any one time;
4. Suspension or fine for five working days or less where the aggregate number of days suspended or fined in any one calendar year is 15 working days or more;

5. The last suspension or fine where an employee receives more than three suspensions or fines of five working days or less in a calendar year.

4A:2-2.3 General causes

(a) An employee may be subject to discipline for:

1. Incompetency, inefficiency or failure to perform duties;
2. Insubordination;
3. Inability to perform duties;
4. Chronic or excessive absenteeism or lateness;
5. Conviction of a crime;
6. Conduct unbecoming a public employee;
7. Neglect of duty; and
8. Other sufficient cause.

4A:2-2.4 Limitations on suspensions and fines

(a) No suspension or fine shall exceed six months except for suspensions pending criminal complaint or indictment. See N.J.A.C. 4A:2-2.7.

(b) In local service, the appointing authority may provide that a suspension be with or without pay. In State service, suspensions shall be without pay unless directly authorized to be with pay by the department head.

(c) An appointing authority may only impose a fine as follows:

1. As a form of restitution;

2. In lieu of a suspension, when the appointing authority establishes that a suspension of the employee would be detrimental to the public health, safety or welfare;
or

3. Where an employee has agreed to a fine as a disciplinary option.

(d) An employee may pay a fine of more than five days salary in a lump sum or through installments. Unless otherwise agreed to by the employee, an installment may not be more than five percent of the gross salary per pay period for a fine under \$500.00; 10 percent of gross salary per pay period for a fine between \$500.00 and \$1,000.00; or 15 percent of gross salary per pay period for a fine over \$1,000.00.

4A:2-2.5 Opportunity for hearing before the appointing authority

(a) An employee must be served with a Preliminary Notice of Disciplinary Action setting forth the charges and afforded the opportunity for a hearing prior to imposition of major discipline, except:

1. An employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services. However, a Preliminary Notice of Disciplinary Action with opportunity for a hearing must be served in person or by certified mail within five days following the immediate suspension.

2. An employee may be suspended immediately when the employee is formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job. See N.J.A.C. 4A:2-2.7.

(b) Where *[an immediate]* *a* suspension is *[without pay]* *immediate* under (a) 1. and (a) 2. above, *and is without pay.* the employee must first be apprised either orally or in writing, of *why an immediate suspension is sought.* *[the nature of]* the charges and general evidence in support of the charges and provided with *sufficient* *[an]* opportunity *to review the charges and the evidence in order* *[at that time]* to respond to the charges before a representative of the appointing authority. The response may be oral or in writing, at the discretion of the appointing authority.

(c) The employee may request a departmental hearing within five days of receipt of the Preliminary Notice. If no request is made within this time or such additional time as agreed to by the appointing authority *or as provided in a negotiated agreement*, the

departmental hearing may be considered to have been waived and the appointing authority may issue a Final Notice of Disciplinary Action.

(d) A departmental hearing, if requested, shall be held within 30 days of the Preliminary Notice of Disciplinary Action unless waived by the employee or a later date is agreed to by the parties.

4A:2-2.6 Hearings before the appointing authority

(a) The hearing shall be held before the appointing authority or its designated representative.

(b) The employee may be represented by an attorney or authorized union representative.

(c) The parties shall have the opportunity to review the evidence supporting the charges and present and examine witnesses. The employee shall not be required to testify, but an employee who does testify will be subject to cross-examination.

(d) Within 20 days of the hearing, or such additional time as agreed to by the parties, the appointing authority shall make a decision on the charges and furnish the employee either by personal service or certified mail with a Final Notice of Disciplinary Action.

4A:2-2.7 Actions involving criminal matters

(a) When an appointing authority suspends an employee based on a pending criminal complaint or indictment, the employee must be served with a Preliminary Notice of Disciplinary Action.

1. The employee may request a departmental hearing within five days of receipt of the Notice. If no request is made within this time, or such additional time as agreed to by the appointing authority *or as provided in a negotiated agreement*, the appointing authority may then issue a Final Notice of Disciplinary Action under 3. below. A hearing shall be limited to the issue of whether the public interest would best be served by suspending the employee until disposition of the criminal complaint or indictment.

2. The appointing authority may impose an indefinite suspension to extend beyond six months where an employee is subject to criminal charges as set forth in N.J.A.C. 4A:2-2.5(a)2, but not beyond the disposition of the criminal complaint or indictment.

3. Where the appointing authority determines that an indefinite suspension should be imposed, a Final Notice of Disciplinary Action shall be issued stating that the employee has been indefinitely suspended pending disposition of the criminal complaint or indictment.

(b) The appointing authority shall issue a second Preliminary Notice of Disciplinary Action specifying any remaining charges against the employee upon final disposition of the

criminal complaint or indictment. The appointing authority shall then proceed under N.J.A.C. 4A:2-2.5 and 2.6.

(c) Where an employee has pled guilty or been convicted of a crime or offense which is cause for forfeiture of employment under N.J.S.A. 2C:51-2, the departmental hearing shall be limited to the issue of the applicability of N.J.S.A. 2C:51-2. If N.J.S.A. 2C:51-2 is found not applicable, related disciplinary charges, if any, may be addressed at the hearing.

4A:2-2.8 Appeals to Merit System Board

(a) An appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice.

(b) If the appointing authority fails to provide the employee with a Final Notice of Disciplinary Action, an appeal may be made directly to the Board within a reasonable time.

4A:2-2.9 Board hearings

(a) Requests for a Board hearing will be reviewed by the Board. However, the Commissioner may grant hearings during August when the Board does not meet.

(b) Major discipline hearings will be heard by the Board or referred to the Office of Administrative Law for hearing before an administrative law judge. See N.J.A.C 1:1-1.1 et seq. for OAL hearing procedures.

(c) The Board may adopt, reject or modify the recommended report and decision of an administrative law judge. Copies of all Board decisions shall be served personally or by regular mail upon the parties.

(d) The Board may reverse or modify the action of the appointing authority, except that removal shall not be substituted for a lesser penalty.

4A:2-2.10 Back pay, benefits and seniority

(a) Where a disciplinary penalty has been reversed *[or modified]*, the Board *[may]* *shall* award back pay, benefits, seniority or restitution of a fine. *Such items may be awarded when a disciplinary penalty is modified.* Back pay shall include unpaid salary, including regular wages, *overlap shift time.* increments and across-the-board adjustments. Benefits shall include vacation and sick leave credits and additional amounts expended by the employee to maintain his or her health insurance coverage during the period of improper suspension or removal.

1. Back pay shall not include items such as overtime pay*[, overlap shift time]* and holiday *[bonus.]* *premium pay.*

2. The award of back pay shall be reduced by the amount of taxes, social security payments, dues, pension payments, and any other sums normally withheld.

3. The award of back pay shall be reduced by the amount of money which was actually earned or could have been earned during the separation. If an employee also held other employment at the time of the adverse action, the earnings from such other employment shall not be deducted from the back pay. However, if the employee increased his or her work hours at the other employment during the back pay period, earnings from such additional hours shall be subtracted from the back pay award.

4. Funds that must be repaid by the employee shall not be considered when calculating back pay.

(b) Unless otherwise ordered, an award of back pay, benefits and seniority shall be calculated from the effective date of the appointing authority's improper action to the date of the employee's actual reinstatement to the payroll.

(c) When the Board awards back pay and benefits, determination of the actual amounts shall be settled by the parties whenever possible.

(d) If settlement on an amount cannot be reached, either party may request, in writing, Board review of the outstanding issue. In a Board review:

1. The appointing authority shall submit information on the salary the employee was earning at the time of the adverse action, plus increments and

across-the-board adjustments that the employee would have received during the separation period; and

2. The employee shall submit an affidavit setting forth all income received during the separation.

4A:2-2.11 Interest

(a) When the Commissioner or Board makes an award of back pay, it may also award interest in the following situations:

1. When an appointing authority has unreasonably delayed compliance with an order of the Commissioner or Board; or

2. Where the Board finds sufficient cause based on the particular case.

(b) Where applicable, interest shall be at an annual rate as set forth in New Jersey court rules, R.4:42-11.

(c) Before interest is applied, an award of back pay shall be reduced in accordance with N.J.A.C. 4A:2-2.10(a)2. and 3.

4A:2-2.12 Counsel fees

(a) The Merit System Board *[may, in its discretion,]* *shall* award partial or full reasonable counsel fees where an employee has prevailed on all or substantially all of the primary issues.

(b) When the Board awards counsel fees, the actual amount shall be settled by the parties whenever possible.

(c) In determining the amount of counsel fees, the following factors should be considered:

1. The time and labor required; and
2. The customary hourly rate.

[(o)] *(d)* The attorney shall submit an affidavit and any other documentation to the appointing authority.

(e) If settlement on an amount cannot be reached, either party may request, in writing, Board review.

SUBCHAPTER 3. MINOR DISCIPLINE AND GRIEVANCES

4A:2-3.1 General

(a) Minor discipline is a formal written reprimand or a suspension or fine of five working days or less.

(b) A grievance is an employee complaint regarding any term or condition which is beyond the employee's control and is remediable by management.

(c) This subchapter shall not apply to local service, where an appointing authority may establish procedures for processing minor discipline and grievances.

(d) In State service, this subchapter shall only apply to:

1. Minor discipline appeals of permanent employees in the career service or persons serving a working test period. Appointing authorities may establish procedures for other employees.

2. Grievance appeals of any employees in the career or unclassified services.

(e) Grievance procedures shall not be used to address any matter for which there is another specific type of appeal to the Commissioner or Board.

(f) These rules shall not be utilized to review a matter exclusively covered by a negotiated labor agreement.

4A:2-3.2 Minor discipline appeal to appointing authority *- State service*

(a) Where departmental minor discipline appeal procedures are established by a negotiated agreement, such agreement shall be the applicable appeal process.

(b) Employees not covered by a negotiated agreement or covered by an agreement that does not address a minor discipline appeal process shall request a departmental hearing within five days of receipt of a notice of discipline or such additional time as may be agreed to by the appointing authority.

1. The departmental hearing shall be conducted within 30 days of such request unless adjourned by the consent of the parties.

2. The burden of proof shall be on the appointing authority.

3. The department shall make a final written disposition of the charges within 20 days of the hearing on Appeal of Minor Discipline Action form, unless the parties have consented to a time extension. The lack of response by the department within this period shall be considered a denial of the appeal.

(c) See N.J.A.C. 4A:2-3.6 for conduct and scheduling and 4A:2-3.7 for appeal to the Board.

4A:2-3.3 Grievance appeal to appointing authority *- State service*

(a) Where departmental grievance procedures are established by a negotiated agreement, such agreement shall be the applicable appeal process.

(b) An employee not covered by a negotiated agreement or covered by an agreement that does not address a grievance appeal process shall utilize the appeal procedures in this subchapter.

(c) When a grievance directly concerns and is shared by more than one grievant, the grievants may appeal as a group to the first level of supervision common to the grievants.

(d) A department may consolidate two or more grievances on the same issue and process them as a group grievance. All grievants shall be promptly notified of this action.

(e) An employee may amend a grievance during the initial step at which it is processed. Such amendment may only be made for the purpose of clarification and shall not be utilized to change the nature of the grievance or to include additional items.

(f) The burden of proof shall be on the employee.

4A:2-3.4 Grievance procedure: Step One *- State service*

(a) A grievance shall be presented in writing on the Department of Personnel grievance form to the office or individual designated by the department to process the matter. It must be filed within *[20]* *30* calendar days from either the date on which the alleged act occurred or the date on which the grievant should reasonably have known of its occurrence. Efforts should be made to resolve the matter informally.

(b) All grievances shall:

1. Specify the particular act or circumstance being grieved:
2. State the requested remedy; and
3. Indicate whether the employee is representing himself or herself or the name of the employee's counsel or agent.

(c) The office or individual receiving the grievance shall notify the employee of the scheduled hearing or grievance meeting date within seven days of receipt of the grievance. *Such hearing or grievance meeting shall be conducted within 30 days of receipt of the grievance, unless an additional time period is agreed to by the parties.

(d) A written decision shall be rendered within 14 days after the conclusion of the hearing or grievance meeting.

(e) Lack of response by the department within the periods set forth in (c) and (d) above, unless the parties have consented to a time extension, shall be considered a negative response.

4A:2-3.5 Grievance procedure: Step Two *- State service*

(a) A grievant may appeal to the Department head or his or her designee within 10 calendar days of:

1. Receipt of the written decision at Step One: or
2. A lack of timely response by the department. See N.J.A.C. 4A:2-3.4(e).

(b) The appeal shall be accompanied by material presented at Step One and any written records or decisions from Step One.

(c) The department shall notify the employee of the scheduled hearing or grievance meeting date within 10 days of receipt of the grievance.

(d) A written decision shall be rendered within 21 days after the conclusion of the hearing or grievance meeting.

(e) Lack of response by the department within the periods set forth in (c) and (d) above, unless the parties have consented to a time extension, shall be considered a denial of the grievance appeal.

4A:2-3.6 Conduct and scheduling of hearings and grievance meetings *- State service*

(a) A grievant shall be entitled to at least one hearing on a grievance prior to the conclusion of Step Two, unless the grievance is satisfactorily resolved at Step One. In addition, a department, at its option, may also schedule a grievance meeting at either Step One or Step Two of the grievance process.

(b) A department may advance a grievance to Step Two of the grievance process. Timely notice of this action shall be supplied to the grievant.

(c) The following shall apply during a hearing at the department level:

1. An employee may be represented by legal counsel, an authorized union representative or appear on his or her own behalf. An employee may also be represented by such other agent as agreed to by the appointing authority. In a group grievance, a member of the group may be designated as the group representative;

2. Permission for a reasonable number of relevant witnesses shall be granted upon the request of the employee or his or her representative or agent;

3. The employee or his or her representative or agent shall act as a spokesperson for the grievant and one person shall act as a spokesperson for the department; and

4. The spokesperson for either party shall have the right to present evidence and examine witnesses.

(d) Any grievance meeting shall be attended only by a designated supervisor, a spokesperson for the department, the grievant, or a spokesperson in a group grievance situation, and the grievant's representative. The department may also permit the attendance of resource persons possessing direct information important to the clarification of the matter.

(e) Departmental management shall schedule minor discipline and grievance hearings or grievance meetings during the employee's regular work hours as far as possible.

(f) The employee or employee agent, if applicable, and witnesses shall be given time off with pay from their regular work duties to participate in hearings or grievance meetings. Such time off shall include reasonable travel time and shall not extend to any time necessary for the preparation of a grievance.

4A:2-3.7 Appeals from appointing authority decisions *- State service*

(a) Minor discipline may be appealed to the Board under a negotiated labor agreement or within 20 days of the conclusion of departmental proceedings under this subchapter, provided any further appeal rights to mechanisms under the agreement are waived.

1. The Commissioner shall review the appeal upon a written record or such other proceeding as the Commissioner directs and determine if the appeal presents issues of general applicability in the interpretation of law, rule, or policy. If such issues or evidence are not fully presented, the appeal may be dismissed and the Commissioner's decision will be a final administrative decision.

2. Where such issues or evidence under 1. above are presented, the Board will render a final administrative decision upon a written record or such other proceeding as the Board directs.

(b) Grievances may be appealed to the Commissioner within 20 days of the conclusion of Step Two procedures under these rules or the conclusion of departmental procedures under a negotiated agreement.

1. The Commissioner shall review the appeal on a written record or such other proceeding as the Commissioner directs and render the final administrative decision.

2. Grievance appeals must present issues of general applicability in the interpretation of law, rule, or policy.

(c) Appeals shall include:

1. A copy of the Appeal of Minor Discipline Action form or Department of Personnel grievance form and all written records and decisions established during departmental reviews; and

2. Written argument and documentation.

(d) A copy of all material submitted to the Department of Personnel must be served on the employee's appointing authority.

(e) Failure to submit the material specified in (c) above may result in dismissal.

(f) The employee shall have the burden of proof in Commissioner or Board reviews.

SUBCHAPTER 4. TERMINATION AT END OF WORKING TEST PERIOD

4A:2-4.1 Notice of termination

(a) An employee terminated from service or returned to his or her former permanent title at the conclusion of a working test period due to unsatisfactory performance shall be given written notice in person or by certified mail by the appointing authority.

(b) The notice shall inform the employee of the right to request a hearing before the Board within 20 days of receipt of the notice.

(c) The notice shall be served not more than ten working days prior to *or five working days following* the last day of the working test period.

4A:2-4.2 Time for appeal

(a) An appeal shall be made in writing to the Board no later than 20 days from the employee's receipt of written notification from the appointing authority of the termination from service or return to a former permanent title.

(b) If the appointing authority fails to provide the notice as specified in N.J.A.C. 4A:2-4.1, an appeal must be filed within a reasonable time.

4A:2-4.3 Board hearing

- (a) An appeal to the Board shall be processed in accordance with N.J.A.C. 4A:2-2.9 et seq.
- (b) The employee has the burden of proof to establish that the action was in bad faith.
- (c) If bad faith is found by the Board, the employee shall be entitled to a new full or shortened working test period and other appropriate remedies. See N.J.A.C. 4A:2-1.5.

SUBCHAPTER 5. EMPLOYEE PROTECTION AGAINST REPRISALS
OR POLITICAL COERCION

4A:2-5.1 General

(a) An appointing authority shall not take or threaten to take any reprisal action against an employee in the career, senior executive or unclassified service in retaliation for an employee's lawful disclosure of information on the violation of any law or rule, governmental mismanagement or abuse of authority.

(b) An appointing authority shall not take or threaten to take any action against an employee in the career service or an employee in the senior executive service with career status based on the employee's permissible political activities or affiliations. This subchapter shall also apply to *State service* employees in the unclassified service who do not serve in policy-making or confidential positions.

4A:2-5.2 Appeals

(a) An employee may appeal a reprisal or political coercion action to the Board within 20 days of the action or the date on which the employee should reasonably have known of its occurrence.

(b) The appeal must be in writing and specify the basis for appeal.

(c) The Commissioner shall review the appeal and request any additional information, or conduct any necessary investigation.

(d) The Board shall decide the appeal on a review of the written record or such other proceeding as it deems appropriate.

(e) Where improper reprisal or political coercion is established, the Board shall provide appropriate protections and remedies to the employee.

SUBCHAPTER 6. RESIGNATIONS

4A:2-6.1 Resignation in good standing

(a) Any permanent employee in the career service may resign in good standing by giving the appointing authority at least 14 days' written or verbal notice, unless the appointing authority consents to a shorter notice.

(b) The resignation shall be considered accepted by the appointing authority upon receipt of the notice of resignation.

(c) A request to rescind the resignation prior to its effective date may be consented to by the appointing authority.

(d) Where it is alleged that a resignation was the result of duress or coercion, an appeal may be made to the Board under N.J.A.C. 4A:2-1.1.

4A:2-6.2 Resignation not in good standing

(a) If an employee resigns without complying with the required notice in N.J.A.C. 4A:2-6.1, he or she shall be held as having resigned not in good standing.

(b) Any employee who is absent from duty for five or more consecutive business days without the approval of his or her superior shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing.

(c) Any employee who has not returned to duty for five or more consecutive business days following an approved leave of absence shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing.

(d) Where an employee is resigned not in good standing under (a), (b), or (c), the employee shall be provided with notice and an opportunity for a departmental hearing under N.J.A.C. 4A:2-2.5, and Final Notice and a right to appeal to the Board under N.J.A.C. 4A:2-2.8. An employee shall be in unpaid status pending the departmental decision. Should an employee seek to return to employment pending the departmental decision, a review under N.J.A.C. 4A:2-2.5(b) shall be conducted prior to continuation of the unpaid status.

(e) Where the resignation is reversed, the employee shall be entitled to remedies under N.J.A.C. 4A:2-2.10.

(f) The appointing authority or the Board may modify the resignation not in good standing to an appropriate penalty or to a resignation in good standing.

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CHAPTER 5

VETERANS AND DISABLED VETERANS PREFERENCE

SUBCHAPTER 1. ELIGIBILITY

4A:5-1.1 Veterans preference

(a) A person is entitled to veterans preference (abbreviated as "V") if he or she:

1. Served at least 90 days in the active United States military or naval service and had been discharged under conditions other than dishonorable, during:

i. World War I, between April 6, 1917 and November 11, 1918;

ii. World War II, after [between] September 16, 1940 and on or before September 2, 1945;

iii. Korean Conflict, after [between] June 23, 1950 and on or before July 27, 1953; or

iv. Vietnam Conflict, after [between] December 31, 1960 and on or before August 1, 1974;

The 90 day period must have begun on or before one of the ending dates above, and shall not include any period of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of a civilian course, nor any time spent as a cadet or midshipman at one of the service academies. During the period of the Vietnam conflict, the following are excluded: any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code; or any service performed pursuant to enlistment in the National Guard or the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve or Coast Guard Reserve.

2. Received a service-incurred injury or disability during a period in (a)1 above, regardless of the length of service;

3. Served in any army or navy of the United States allies in World War I between July 14, 1914 and November 11, 1918, or World War II between September 1, 1939 and September 2, 1945, provided he or she voluntarily enlisted in such service, was a United States citizen at the time of enlistment, did not renounce or lose United States citizenship, and was honorably discharged; or

4. Is the surviving spouse of a person entitled to veterans preference and has not remarried.

4A:5-1.2 Disabled veterans preference

(a) A person is entitled to disabled veterans preference (abbreviated as "DV") if he or she:

1. Receives or is entitled to receive, under United States Veterans Administration guidelines, compensation for service connected disability of 10 percent or more arising out of military or naval service during any of the periods in N.J.A.C. 4A:5-1.1(a);

2. Is the spouse of a person entitled to disabled veterans preference who:

1. Is not employed by any jurisdiction operating under Title 11A, New Jersey Statutes; and

ii. Waives any right to preference for the duration of the spouse's employment;

3. Is the surviving spouse of a person entitled to disabled veterans preference and has not remarried; or

4. Is a parent or surviving spouse of a person who would have been entitled to veterans preference under N.J.A.C. 4A:5-1.1 but who died while in service. The use of the preference by one such survivor shall suspend the right of any other so long as the first individual who uses the

preference is employed by any jurisdiction operating under Title 11A, New Jersey Statutes.

4A:5-1.3 Filing for veterans or disabled veterans preference

(a) To establish veterans or disabled veterans preference, an individual must submit a completed "Veterans Preference Claim Form" (DPF-189) along with a copy of Veterans Separation Papers (Form DD214) to the New Jersey Department of Personnel, CN 310, Trenton, New Jersey 08625.

(b) When an individual does not possess Veterans Separation Papers and the Veterans Administration or National Personnel Records Center copy has been destroyed, the applicant must submit a letter from the appropriate agency attesting to the destruction of such records and a notarized statement by the applicant attesting to the dates of active service, branch of service, rank and type of discharge.

(c) Veterans or disabled veterans preference is effective for all examinations in which the closing date for applications falls on or after the filing of the required documents.

(d) For initial employment in the noncompetitive division, documentation to establish veterans or disabled veterans preference shall be furnished by the applicant to the appointing authority prior to hiring or within a reasonable time thereafter as permitted by the appointing

authority. However, veterans and disabled veterans preference shall not be applied for promotion to a competitive title until the required documents have been filed with the Department of Personnel.

SUBCHAPTER 2. USE OF PREFERENCE

4A:5-2.1 Open competitive examinations

(a) A list of eligibles who have passed an open competitive examination shall appear in the following order:

1. Eligibles entitled to disabled veterans preference in the order of their scores;
2. Eligibles entitled to veterans preference in the order of their scores;
3. Non-veteran eligibles (abbreviated as "NV") in the order of their scores.

(b) Whenever more than one eligible has the same score and same veterans status, the tie shall not be broken and they shall have the same rank.

(c) Whenever a disabled veteran or veteran is certified from an open competitive list and a regular appointment is to be made, the appointing authority shall first appoint disabled veterans and then veterans in the order of ranking. For example:

TEST SCORESRANKED LIST OF ELIGIBLES

<u>Name and Status</u>	<u>Score</u>	<u>Name and Status</u>	<u>Score</u>	<u>Rank</u>
John Green (NV)	90	Robert Brown (DV)	80	1
Charles Black (V)	85	Charles Black (V)	85	2
Mary White (V)	85	Mary White (V)	85	2
Robert Brown (DV)	80	John Green (NV)	90	3
Jane Silver (NV)	80	Jane Silver (NV)	80	4
Tom Gold (NV)	75	Tom Gold (NV)	75	5

Assuming all eligibles are interested in appointment. Robert Brown must receive the first appointment. The next vacancy must be filled by appointing either Charles Black or Mary White. Assuming Mary White is appointed, the next vacancy must be filled by appointing Charles Black. The next vacancy must be filled by choosing among John Green, Jane Silver and Tom Gold, in accordance with the "rule of three." See N.J.S.A. 11A:4-8.

(d) Appointing authorities are not required to give preference to disabled veterans or veterans when making a provisional appointment from an incomplete list. See N.J.A.C. 4:1-14.2.

4A:5-2.2 Promotional examinations

(a) No distinction shall be made between disabled veterans and veterans in promotional examinations. Both are referred to as veterans in this rule.

(b) A list of eligibles who have passed a promotional examination shall appear in the order of their scores regardless of veteran or non-veteran status. However, when scores are tied, the names of veterans shall be listed first within each rank.

(c) Whenever the name of a veteran appears in the highest rank on a promotional certification, a nonveteran shall not be appointed unless the appointing authority shows cause why the veteran should be removed from the promotional list. See N.J.A.C. 4:1-12.11 for removal procedures.

(d) If the names of one or more veterans appear on a promotional certification headed by a veteran, any veteran *among the top three interested eligibles* may be appointed in accordance with the "rule of three." See N.J.S.A. 11A:4-8.

(e) Whenever a nonveteran heads a promotional certification, any *reachable* eligible may be appointed in accordance with the "rule of three." See N.J.S.A. 11A:4-8.

(f) As an example, assume that the following represents the ranked order and status of *[names]* *interested eligibles* which appear on promotional certifications:

1. Veteran 2. Non-Veteran 3. Non-Veteran
Veteran must be the offered the appointment.

1. Veteran 2. Non-Veteran 3. Veteran
Either (1) or (3) must be offered the appointment.

1. Non-Veteran 2. Veteran 3. Non-Veteran
Either (1), (2) or (3) may be offered the appointment.

1. Veteran (Tied) 1. Non-Veteran (Tied) 2. Non-Veteran
Veteran must be offered the appointment.

4A:5-2.3 Veterans and disabled veterans preference in the noncompetitive
division

In making appointments in the noncompetitive division, preference shall
be given among qualified applicants to disabled veterans, then veterans.

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August 31, 1987

CHAPTER 7
EQUAL EMPLOYMENT OPPORTUNITY AND
AFFIRMATIVE ACTION

SUBCHAPTER 1. EQUAL EMPLOYMENT OPPORTUNITY

4A:7-1.1 General *[policy]*

(a) There shall be equal employment opportunity for all persons in, or applicants for the career, unclassified and senior executive services, regardless of race, creed, color, national origin, sex, age, marital status, religion or handicap, except where a particular qualification is specifically permitted and is essential to successful job performance. See N.J.A.C. 4:1-12.7, 4:2-6.3 and 4:3-6.4 on bona fide occupational qualifications.

(b) Equal employment opportunity includes, but is not limited to, recruitment, selection, hiring, training, promotion, transfer, *work environment.* layoff, return from layoff, compensation and fringe benefits. Equal employment opportunity further includes policies, procedures and programs for recruitment, employment, training, promotion, and retention of minorities, women and handicapped persons.

(c) Handicapped persons shall include any person who has a physical or mental impairment which substantially limits one or more major life

activities; has a record of such an impairment; or is regarded as having such an impairment. See 29 U.S.C. 706. See also N.J.A.C. 4:1-8.16 and 8.17 for accommodation and waiver of examinations for handicapped persons.

(d) The following race/ethnic categories shall be used by the Department of Personnel:

1. W: "White, not of Hispanic origin" means persons having origins in any of the original peoples of Europe, North Africa or the Middle East;

2. B: "Black, not of Hispanic origin" means persons having origins in any of the Black racial groups of Africa;

3. H: "Hispanic" means persons of Mexican, Puerto Rico, Cuban, Central or South America or other Spanish culture or origin, regardless of race;

4. I: "American Indian or Alaskan Native" means persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition; and

5. A: "Asian or Pacific Islander" means persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or Pacific Islands. This area includes, for example, China, Japan, Korea, the Phillipine Islands and Samoa.

4A:7-1.2 Discriminatory inquiries

(a) A preemployment application shall not require an applicant to provide information covering subject matters which may be discriminatory, except where related to a job requirement or required by law. See Division on Civil Rights rules at N.J.A.C. 13:7-1.1.

(b) Preemployment and employment information which is required by the State or Federal government for statistical purposes may be obtained by an appointing authority or the Department of Personnel.

4A:7-1.3 Prohibition of sexual harassment *[in State government]*

(a) Deliberate or repeated unwelcome sexual advances, requests for sexual favors, comments, gestures and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(b) In local service, an appointing authority may establish procedures for processing complaints of sexual harassment.

[(b)] *(a)* The sexual harassment of any State employee by any other State employee or person doing business with the State shall constitute prohibited discrimination under this chapter.

[(o)] *(d)* It shall be the responsibility of each *State* appointing authority to:

1. Ensure that the working environment is free from acts of sexual harassment by its supervisors, employees and non-employees;
2. Take immediate and corrective action when sexual harassment has occurred; and
3. Make all employees aware of the policy against sexual harassment and of the procedure for filing complaints when sexual harassment has occurred.

[(d)] *(e)* Employee complaints of sexual harassment in the State career, unclassified and senior executive services shall be processed in accordance with N.J.A.C. 4A:7-3.2 through 4A:7-3.4. *[In local service, an appointing authority may establish procedures for processing complaints of sexual harassment.]*

SUBCHAPTER 2. DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

4A:7-2.1 Division responsibilities *- State service*

(a) The Division of Equal Employment Opportunity and Affirmative Action (Division of EEO/AA) shall develop, implement and administer an equal employment opportunity and affirmative action program for all State employees in the career, *[and unclassified senior executive]* *senior executive and unclassified* services. Such program shall:

1. Ensure that each State agency's *[affirmative action and equal employment opportunity]* *equal employment opportunity and affirmative action* goals for minorities, women and handicapped persons are in accordance with the Standard for Determining Underrepresentation of Women and Minorities in New Jersey State Government, and are related to their population in the New Jersey labor market as determined by the relevant federal census;

2. Ensure that each agency complies with all laws and rules relating to equal employment opportunity*[*;]* *and oversee that the purposes of this subchapter are implemented through the agency affirmative action officers:*

3. Seek correction of discriminatory policies, practices and procedures;

4. Recommend appropriate sanctions for non-compliance to the

Commissioner;

5. Review State personnel policies, practices and procedures,

and where appropriate, eliminate artificial barriers to equal employment opportunity;

6. Act as liaison with federal, state and local enforcement

agencies;

7. Perform such other duties as prescribed by law and these

rules.

4A:7-2.2 Department of Personnel responsibilities *- State service*

(a) The Department of Personnel, through the Division of EEO/AA,

shall:

1. Ensure that minorities, women and handicapped persons are

among the pool of applicants for all vacant positions in the career, unclassified and senior executive services;

2. Review its rules, selection devices and testing procedures

to eliminate those which are discriminatory;

3. Analyze job specifications to eliminate artificial barriers to employment;

4. Review all certification dispositions for compliance with this chapter;

5. Review all discrimination complaints under Title VII of the Civil Rights Act of 1964, evaluate trends and recommend appropriate policy changes;

6. Transmit to the Governor, at least semi-annually, progress reports on affirmative action in all State agencies; *and*

[7. Upon request, advise and assist local appointing authorities in developing affirmative action and equal employment policies; and]

[8.] *7. Perform such other duties as prescribed by law and these rules.

4A:7-2.3 Equal Employment Opportunity Advisory Commission *- State service*

(a) An Equal Employment Opportunity Advisory Commission shall be established and shall consist of 11 members appointed by the Governor, at

least six of whom shall be minorities, women and handicapped persons, and shall meet at least quarterly.

(b) The Commission shall advise the Division of EEO/AA and make recommendations on improving the State affirmative action plan.

SUBCHAPTER 3. COMPLIANCE AND APPEALS

4A:7-3.1 *Appointing authority* *[R]*responsibilities* *[of State agencies]*

(a) In local service, an appointing authority may establish equal employment opportunity and affirmative action programs. Upon request, the Division of EEO/AA shall advise and assist local appointing authorities in the development of such programs.

[(a)] *(b)* Each State agency shall:

1. Ensure equality of opportunity for all of its employees and applicants seeking employment.

2. Appoint at least one person as the affirmative action officer with the responsibility for affirmative action and equal employment opportunity, who shall serve on a full-time basis, unless otherwise requested by the agency head and approved by the Commissioner and Director of the Division of EEO/AA.

3. Submit an affirmative action plan to the Director*[,] *for approval.* which shall include, but not be limited to, a policy statement, organization of the agency, a description of how the plan is communicated to its employees, an analysis of the workforce and job categories, goals and timetables and specific remedial action to meet its goals.

4. Submit to the Director quarterly affirmative action reports and an annual update of its affirmative action plan which shall include an evaluation of the goals set for the prior year, the goals for the upcoming year and the number, subject matter, time for processing and disposition of all discrimination complaints filed with the agency.

5. Make a good faith effort to meet the affirmative action goals and timetables set forth in its affirmative action plan and updates. Any agency which fails either to achieve or make a good faith effort to achieve its goals may be subject to sanctions and penalties.

6. Ensure that minorities, women and handicapped persons are considered for employment opportunities where the need for aggressive efforts have been identified.

7. Explore and, where appropriate, implement innovative personnel policies to enhance equal employment opportunity and affirmative action.

*[4A:7-3.2 Discrimination appeals

(a) Employees in the State career, unclassified and senior executive services who claim unlawful discrimination may appeal such action using the procedures in this section. In local service, an appointing authority may establish procedures for processing discrimination complaints.

(b) Appeals involving disciplinary actions, removal, demotions and layoffs, removal at the end of or during the working test period, classification review, examinations and unsatisfactory performance shall utilize those specific procedures. See N.J.A.C. 4A:2-1.7.

(c) The Commissioner may require any appeal, which raises issues of alleged discrimination and other issues, such as examination appeals, to be processed using the procedures set forth in N.J.A.C. 4A:7-3.3 and 3.4 or such combination of procedures as the Commissioner deems appropriate.

(d) A discrimination complaint may also be simultaneously filed with the New Jersey Division on Civil Rights and filed with the United States Equal Employment Opportunity Commission. Any complaint which is simultaneously filed will be referred to the proper agency for processing.]*

(e) The appellant shall have the burden of proof in all discrimination appeals.]*

*4A:7-3.2 Discrimination appeals - State service

(a) Appeals which raise issues for which there is another specific appeal procedure must utilize those procedures. See N.J.A.C. 4A:2-1.7.

(b) A discrimination complaint may also be simultaneously filed with the New Jersey Division on Civil Rights and filed with the United States

Equal Employment Opportunity Commission. Any complaint which is simultaneously filed will be referred to the proper agency for processing.

(c) In local service, an appointing authority may establish procedures for processing discrimination complaints.

(d) Employees in the State career, senior executive and unclassified services who claim unlawful discrimination may appeal such action using the procedures in this section, see N.J.A.C. 4A:7-3.3 and 3.4.

1. The Commissioner may require any appeal, which raises issues of alleged discrimination and other issues, such as examination appeals, to be processed using the procedures set forth in N.J.A.C. 4A:7-3.3 and 3.4 or such combination of procedures as the Commissioner deems appropriate.

2. The appellant shall have the burden of proof in all discrimination appeals.*

4A:7-3.3 Departmental review *- State service*

(a) A discrimination complaint shall be presented to the affirmative action officer of the appointing authority, with a copy to the Director of the Division of EEO/AA, within 20 days of either the discriminatory action or the date on which the individual should reasonably have known of its occurrence. It shall be in writing and specify the basis for the complaint.

(b) The affirmative action officer shall investigate the complaint and prepare a report to the department head. The department head shall render a written decision within 45 days of the receipt of the complaint by the affirmative action officer, unless a longer period is agreed to by the parties.

1. The decision shall advise of the right of appeal to the Division of EEO/AA.

2. The individual and the Division of EEO/AA shall be furnished with a copy of the final decision by the department head.

4A:7-3.4 Department of Personnel proceedings *- State service*

(a) An individual may appeal a final decision of the department head to the Division of EEO/AA within 20 days of receipt of the decision.

1. If no decision is received within the timeframe specified in N.J.A.C. 4A:7-3.3(b), the individual may request, in writing, that the Division of EEO/AA assume jurisdiction of the complaint. The Division of EEO/AA shall notify the appointing authority of its action.

2. The appeal shall be in writing and include all materials presented at the department level and the written decision of the department head.

3. The Division of EEO/AA shall review the written record and render a "[final]" decision within 45 days after receipt of the appeal. The "[final]" decision shall advise of the right to appeal to the Merit System Board.

(b) A party may appeal the decision of the Division of EEO/AA to the Merit System Board within 20 days of receipt of the decision.

1. The appeal shall be in writing and contain all information which was presented to the Division of EEO/AA, plus a copy of the Division's final decision.

2. The Commissioner shall review the appeal and request any additional information or conduct any necessary investigation.

3. The Board shall decide the appeal on a review of the written record or such other proceeding as it deems appropriate. *See N.J.A.C. 4A:2-1.1(d).*

CHAPTER 9
POLITICAL SUBDIVISIONS

SUBCHAPTER 1. PROCEDURES FOLLOWING TITLE 11A COVERAGE

4A:9-1.1 Jurisdictions adopting Title 11A, New Jersey Statutes by referendum

(a) Upon the adoption by referendum of Title 11A, New Jersey Statutes, by a political subdivision, the Commissioner shall provide for the classification of all positions in the jurisdiction. See N.J.S.A. 11A:9-2 through 11A:9-7 for referendum procedures.

(b) Any employee who holds a position allocated to the career service and who has been continuously employed by the political subdivision for a period of at least one year prior to the adoption of Title 11A, New Jersey Statutes, including any such employee on an approved leave of absence, shall be considered a permanent employee under Title 11A, New Jersey Statutes and these rules as of the date of adoption.

(c) Seniority calculations for employees determined to be permanent under (b) above shall be based upon the length of their continuous service with that political subdivision.

(d) Vacation and sick leave entitlements under Title 11A, New Jersey Statutes, for employees determined to be permanent under (b) above shall be based upon seniority and ~~*[begin to accrue]*~~ *are effective* on a date set by the appointing authority. However, the date shall in no event be more than 60 days following the adoption of Title 11A, New Jersey Statutes.

4A:9-1.2 Jurisdictions subject to Title 11A, New Jersey Statutes, by consolidation or legislation

(a) This rule applies to political subdivisions which are subject to Title 11A, New Jersey Statutes through consolidation of governmental functions or by legislation.

(b) When functions of two or more political subdivisions are consolidated, and any one of the political subdivisions shall be operating under Title 11A, New Jersey Statutes, at the time of such consolidation, the other political subdivision or subdivisions shall be deemed to have adopted Title 11A, New Jersey Statutes with regard to the combined functions.

(c) The Commissioner shall provide for classification of all positions in the jurisdictions following such consolidation or enactment of legislation.

(d) Any employee who holds a position allocated to the career service and who has been continuously employed by that jurisdiction for a period of at least one year prior to the effective date of such consolidation or

legislation, including any such employee on an approved leave of absence, shall be considered a permanent employee under Title 11A, New Jersey Statutes and these rules as of that date, except as may be provided in such legislation.

(e) Seniority calculations for employees determined to be permanent under (d) above shall be based upon the length of their continuous service with the political subdivision.

(f) Vacation and sick leave entitlements under Title 11A, New Jersey Statutes, for employees determined to be permanent under (d) above shall be based upon seniority and shall ~~*[begin to accrue]*~~ *be effective* on the effective date of consolidation or legislation.

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August 31, 1987

**SURVEY DISTRIBUTED
TO
LOCAL GOVERNMENT
APPOINTING AUTHORITIES**

We're charting a new course...



...will you help us?

NEW JERSEY DEPARTMENT OF PERSONNEL COUNTY AND MUNICIPAL GOVERNMENT SURVEY

This section to be answered by person(s) completing questionnaire.

NAME _____

DEPARTMENT _____

TITLE _____

JURISDICTION _____

(Municipality, County, School District, Housing Authority, etc.)

INSTRUCTIONS

1. Select only one (1) response unless multiple selection is indicated.
2. Respond to all questions unless indicated otherwise.
3. If you have any questions, call Iris Mungin Bey, New Jersey Department of Personnel (609) 292-4144.
4. Feel free to add additional pages of comments or suggestions.

DEPARTMENT OF PERSONNEL SERVICES TO YOU

Please rate the New Jersey Department of Personnel Regional Office (excluding interaction with the Division of Examinations or Appellate Practices and Labor Relations) in providing you with the following:

	Excel- lent	Satis- factory	Unsatis- factory
1. Accurate response	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Timely response	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Courteous response	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Assistance in classification matters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Titles consistent with technological need	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Sufficient information regarding new or revised procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

YOUR KNOWLEDGE OF THE PERSONNEL SYSTEM

7. Please indicate areas in which you need further information, training or assistance: (you may select as many as you wish)

- | | |
|---|---|
| <input type="checkbox"/> a. Occupational groupings of titles | <input type="checkbox"/> k. Development of an Affirmative Action plan |
| <input type="checkbox"/> b. Classification of positions | <input type="checkbox"/> l. Compensation planning |
| <input type="checkbox"/> c. Progressive discipline documentation | <input type="checkbox"/> m. Recruitment |
| <input type="checkbox"/> d. Employee training | <input type="checkbox"/> n. Career development |
| <input type="checkbox"/> e. Open competitive and promotional examination processes | <input type="checkbox"/> o. Drafting of a personnel manual |
| <input type="checkbox"/> f. Certification process/removals from lists | <input type="checkbox"/> p. Employee assistance programs |
| <input type="checkbox"/> g. Incentives/awards programs | <input type="checkbox"/> q. Development of grievance procedures |
| <input type="checkbox"/> h. Merit System (formerly Civil Service) appeals processes | <input type="checkbox"/> r. Personnel records management |
| <input type="checkbox"/> i. Employee performance evaluations | <input type="checkbox"/> s. Orientation of employees regarding the Merit System ("Civil Service") |
| <input type="checkbox"/> j. Affirmative Action Employee "Awareness" training | <input type="checkbox"/> t. Lay-off procedures |

YOUR INTERACTIONS WITH THE PERSONNEL SYSTEM

How often do you

- | | Quite often | Some-times | Rarely, if at all |
|---|--------------------------|--------------------------|--------------------------|
| 8. encourage your provisional incumbents to file for examinations for their positions? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. check for the existence of a list for a particular title, or one which may be used as appropriate to fill vacancies before hiring? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. have difficulties knowing what information to submit when disposing of certifications? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. suggest improvements for New Jersey Department of Personnel operations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. provide information to the Division of Examinations regarding content of examinations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. use the regular reemployment process as part of your recruitment effort to fill vacancies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. make a provisional appointment from an incomplete certification (under N.J.A.C. 4:1-14.2)? (if you do not, please skip to question #16) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. if yes to #14, permanently appoint those employees? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. make a preliminary inquiry to the Department of Personnel's Regional Office when faced with a questionable classification? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. communicate with other jurisdictions regarding the classification of positions job types? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. compare the salaries your jurisdiction with other jurisdiction | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. conduct classification audits for the positions in your jurisdiction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. compare the titles in your records with the titles approved by the New Jersey Department of Personnel? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. use suggestion awards, service awards, pay bonuses and/or other incentives for your employees? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

22. Which of your departments/units interact with the New Jersey Department of Personnel?
- Payroll
 - Personnel/Human Resources
 - Administrator's/Manager's Office
 - Clerk's Office
 - Other (please specify): _____
-
23. How many employees are involved with only personnel/human resource matters?
- a. 0
 - b. 1
 - c. 2
 - d. 3
 - e. 4 or more
24. Which of the following information is included in your own personnel/payroll records? (Indicate all which apply)
- a. Original date of employment on payroll
 - b. All provisional appointment titles and dates
 - c. All permanent appointment titles and dates
 - d. Time off due to suspensions and leaves of absence without pay
25. Are your personnel/payroll records automated within your own system (not just the Regional Office)?
- a. yes
 - b. no
 - c. in the process of being automated
26. Does the Department of Personnel Regional Office solicit your input/concerns regarding many of the procedural changes which occur?
- a. yes
 - b. no
27. In selecting titles for new jobs in your jurisdiction, which resources do you use? (Indicate all which apply)
- a. Department of Personnel Regional Office
 - b. Dictionary of Occupational Titles or library references
 - c. Consultants/specialists in the field
 - d. Your own expertise in the field
 - e. If none of the above, please state resource(s): _____
-
28. Do you have a personnel manual?
- a. yes
 - b. no
 - c. presently drafting one
29. Do you have any Affirmative Action plan/program?
- a. yes
 - b. no
 - c. presently drafting one

30. For which of the following is your employee performance evaluation system used as a factor? (Indicate all which apply)
- a. We do not use a performance evaluation system
 - b. Promotional selections
 - c. Training and career pathing
 - d. Salary increases
 - e. Disciplinary actions
 - f. If other, please indicate: _____

31. How do you usually recruit for jobs in the non-competitive division? (Indicate all which apply)
- a. We do not actively recruit
 - b. Advertise in newspapers
 - c. Word of mouth
 - d. Employment agencies
 - e. School contacts
 - f. If other, please indicate: _____

32. Generally, how much time elapses between the approval within your jurisdiction for filling a vacancy and actually notifying the Department of Personnel Regional Office (CS-6, CS-66, CS-67, letter, etc.)?
- a. less than 1 week
 - b. 1 to 2 weeks
 - c. 3 to 6 weeks
 - d. more than 6 weeks

33. Generally, how much time elapses between the actual date of terminating an employee in a specific title and forwarding the notification of such action (CS-151 or CS-66) to the Department of Personnel Regional Office?
- a. less than 1 week
 - b. 1 to 2 weeks
 - c. 3 to 6 weeks
 - d. more than 6 weeks

34. Aside from unexpected resignations, how far in advance are you usually aware of the need to fill vacancies?
- a. 2 weeks or less
 - b. 3 to 6 weeks
 - d. more than 6 weeks

Please send the completed questionnaire in the enclosed stamped/addressed envelope to:

Iris Mungin Bey
 Commissioner's Executive Task Force
 Department of Personnel
 CN 317
 Trenton, NJ 08625

Please return by AUGUST 7, 1987

Thank You

IMPROVEMENT IN SERVICES

35. Would you be willing to accept delegation by the Department of Personnel for any of the following personnel functions if training were provided? (Select as many as you wish.)
- a. Processing promotional examinations when no competitive situation exists (under N.J.A.C. 4:1-8.5)
 - b. Issuing certifications
 - c. Administering examinations
 - d. Conducting classification audits
 - e. Processing seniority rosters for layoffs
 - f. Maintaining employment history records
36. Would you consider rehiring a former employee from the regular reemployment list for any title which was previously held on a permanent basis (provided there are no promotional lists, no special reemployment lists, insufficient eligibles for promotion or other specific conditions)?
- a. yes
 - b. no
37. Please comment on any specific area(s) which may help the New Jersey Department of Personnel improve service to you, the local jurisdiction:
