

**CHAPTER 3**  
**CLASSIFICATION, SERVICES**  
**AND COMPENSATION**

**Authority**

N.J.S.A. 11A:2-6(d), 11A:2-11(h), 11A:3-1 through 7, and 11A:6-24;  
29 U.S.C. §§201 et seq.; and Executive Order No. 70 (1992).

**Source and Effective Date**

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

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, Classification, Services and Compensation, expires on November 18, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 3, Classification, Services and Compensation, was adopted as R.1988 d.416, effective September 6, 1988. See: 20 N.J.R. 846(a), 20 N.J.R. 2255(b). See, also, Historical Notes and annotations at repealed N.J.A.C. 4:1, Civil Service Rules, specifically Subchapters 6, 7, 10 and 27; repealed N.J.A.C. 4:2, State Service, specifically Subchapters 6, 7, and 27; and repealed N.J.A.C. 4:3, Local Service, specifically Subchapter 2.

Pursuant to Executive Order No. 66(1978), Chapter 3, Classification, Services and Compensation, was readopted as R.1993 d.424, effective August 5, 1993. See: 25 N.J.R. 1916(a), 25 N.J.R. 4064(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Classification, Services and Compensation, was readopted as R.1999 d.60, effective January 28, 1999. See: 30 N.J.R. 4346(a), 31 N.J.R. 638(a).

Chapter 3, Classification, Services and Compensation, was readopted as R.2004 d.242, effective June 4, 2004. See: 36 N.J.R. 909(a), 36 N.J.R. 3267(a).

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

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. CAREER AND UNCLASSIFIED SERVICES**

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

**SUBCHAPTER 2. SENIOR EXECUTIVE SERVICE**

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

**SUBCHAPTER 3. CLASSIFICATION**

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

- 4A:3-3.5 Reclassification of positions
- 4A:3-3.6 New titles
- 4A:3-3.7 Trainee, apprentice, recruit and intern titles
- 4A:3-3.7A Police Assistant title: local service
- 4A:3-3.7B Correction Officer Apprentice title: State service
- 4A:3-3.8 Intermittent titles
- 4A:3-3.9 Appeal procedure

**SUBCHAPTER 4. COMPENSATION**

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

**SUBCHAPTER 5. OVERTIME COMPENSATION**

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

**APPENDIX A. OVERTIME ELIGIBILITY AND COMPENSATION CHART**

**SUBCHAPTER 1. CAREER AND UNCLASSIFIED SERVICES**

**4A:3-1.1 Career service**

(a) All job titles shall be allocated to the career service, except for those job titles allocated by the Board to the

unclassified service as provided in N.J.A.C. 4A:3-1.3 and those positions in State service allocated by the Board to the Senior Executive Service as provided in N.J.A.C. 4A:3-2.

(b) Before a title in the career service is reallocated to the unclassified service, the Board shall hold a public hearing to solicit comment with respect to the criteria set forth in N.J.A.C. 4A:3-1.3.

(c) When a title is reallocated from the career service to the unclassified service by the Board or by legislative enactment, incumbents with permanent status in the title shall retain all career service rights so long as they remain in that title. When a permanent incumbent is appointed to a different, unclassified title, the employee shall retain only those rights to a Merit System Board hearing available to career service employees upon separation from government service for disciplinary reasons (see N.J.A.C. 4A:2-2) or due to layoff (see N.J.A.C. 4A:8).

#### Case Notes

"Conflict of interest" resolution was not preempted by state law and was not "special legislation". *Bourquin v. Hunterdon County Department of Planning*, 93 N.J.A.R.2d (CSV) 32.

#### 4A:3-1.2 Divisions within the career service

(a) The Commissioner shall allocate and reallocate career service titles between the competitive and noncompetitive divisions.

(b) A career service job title in the competitive division is subject to the competitive examination procedures. See N.J.A.C. 4A:4-2.

(c) A job title may be placed in the noncompetitive division on an ongoing or interim basis when it is determined by the Commissioner that it is appropriate to make permanent appointments to the title and one or more of the following criteria are met.

1. Competitive testing is not practicable due to the nature of the knowledge, skills and abilities associated with the job;

2. Certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems and working conditions; or

3. There is a need for immediate appointments arising from a new legislative program or major agency reorganization.

(d) All appointees to noncompetitive titles shall meet the minimum requirements set forth in the job specification and satisfactorily complete a working test period.

(e) Prior to any reallocation from the competitive to noncompetitive divisions, whether on an ongoing or interim

basis, an administrative review shall be conducted and notice of the proposed reallocation shall be sent to affected appointing authorities and negotiations representatives. The notice shall designate the period of time, which in no event shall be less than 20 days, during which written comment may be submitted, and may provide for a public hearing.

1. Data, reports, analyses and other information utilized in the determination shall constitute the administrative record, and shall be available for review by affected employees, appointing authorities and negotiations representatives.

2. After the comment period and the public hearing, if any, the Commissioner shall issue a final administrative decision containing findings and conclusions with respect to the proposed reallocation, based upon the administrative record and any comment received, and implementation procedures.

(f) When a job title is reallocated from the competitive to noncompetitive divisions, the Commissioner's decision shall specify an effective date for reallocation.

1. Permanent employees in that title as of the effective date shall retain their permanent status in the noncompetitive division.

2. Probationary employees in that title as of the effective date shall continue serving their working test periods and, upon successful completion, attain permanent status in the noncompetitive division.

3. Provisional employees who remain in that title as of the effective date shall receive regular appointments and begin serving their working test periods on the effective date.

(g) If a title is designated noncompetitive on an interim basis, at the end of the interim noncompetitive period, which shall be no greater than one year, the job title shall be redesignated as competitive. Individuals appointed during the interim noncompetitive period shall, upon successful completion of their working test periods, attain permanent status in the competitive division.

#### Case Notes

Business justifications for requirement that nonuniformed municipal employees be residents did not justify racially discriminatory effect of requirement. *NAACP, Newark Branch v. Town of Harrison, N.J.*, D.N.J.1990, 749 F.Supp. 1327, affirmed 940 F.2d 792.

#### 4A:3-1.3 Unclassified service

(a) A job title shall be allocated by the Board to the unclassified service when:

1. In State service, the title is so designated under N.J.S.A. 11A:3-4;

**4A:3-3.9 Appeal procedure**

(a) An appeal from the classification or reclassification of a position is a request for review, or a complaint that the duties of a specific position do not conform to the approved job specification for the title assigned to that position.

(b) The procedures in this section are applicable to employees in the career and unclassified services.

(c) In State service, a classification appeal by an employee or union representative shall be made in writing. The appeal shall include a position classification questionnaire completed by the appellant, and shall specify the title which the appellant believes is appropriate to the duties performed by the employee and explain how the duties at issue are more appropriate to the requested title than to the title in which the employee is currently serving.

1. The employee's immediate supervisor shall indicate on the position classification questionnaire the supervisor's agreement or disagreement with the appellant's description of job duties, the appellant's cited percentage of time spent on each duty and the title proposed by the appellant as appropriate to the duties performed. To the extent that the supervisor disagrees with information on the questionnaire, the supervisor shall explain in writing the nature of the disagreement. The supervisor shall also sign the position classification questionnaire.

2. The employee's immediate supervisor shall forward the completed position classification questionnaire to the program manager/division director, as applicable, who shall indicate on the questionnaire agreement or disagreement with the appellant's description of job duties, the appellant's cited percentage of time spent on each duty and the title proposed by the appellant as appropriate to the duties performed. To the extent that the program manager/division director disagrees with information on the questionnaire, he or she shall explain in writing the nature of the disagreement. The program manager/division director shall also sign the questionnaire.

3. The supervisor and program manager/division director shall complete their portions of the questionnaire and provide their signatures on the form in accordance with (c)1 and 2 above within 15 days of the employee's submission of the appeal to the immediate supervisor. By no later than the end of this period, the program manager/division director shall submit to the agency representative the completed questionnaire, along with the appellant's most recent PAR form (see N.J.A.C. 4A:6-5).

4. The agency representative shall review the appeal, affix to it an organizational chart and ensure that the information set forth in (c)1 through 3 above has been included. Within 10 days of receipt of the appeal, the agency representative shall either notify the appellant that specific additional information is required, or forward the appeal with organizational chart to the appropriate repre-

sentative of the Civil Service Commission. The agency representative may in writing indicate with the submitted appeal a recommended approval or rejection of the appeal for specified reasons. The agency representative shall notify the appellant of the submission to the Commission representative. If additional information is required of the appellant, the agency representative shall forward the appeal with organizational chart and the additional information to the appropriate representative of the Civil Service Commission within 10 days of receipt of the appellant's response to the request for additional information.

5. A representative of the Civil Service Commission shall review the appeal, request additional information if needed, order a desk audit where warranted and issue a written decision letter. The decision letter shall be issued within 180 days of receipt of the appeal and all completed documentation as required by the representative of the Civil Service Commission, and shall:

i. Where the agency representative, Commission representative and appellant are in agreement with the proposed title, issue an abbreviated decision letter; or

ii. Where the agency representative, Commission representative and appellant are not in agreement with the proposed title, include a summary of the duties of the position, findings of fact, conclusions, a notice to an employee or authorized employee representative of appeal rights to the Civil Service Commission and a determination that:

(1) The position is properly classified;

(2) The position is properly classified, but that out-of-title duties are being performed, in which case the Commission representative shall order, in writing, the immediate removal of inappropriate duties within a specified period of time; or

(3) The position should be reclassified, in which case, normal reclassification procedures shall be initiated immediately.

(d) In local service, an appeal from an employee, union representative or appointing authority shall be submitted, in writing, to the appropriate representative of the Civil Service Commission. The appeal must identify the specific duties that do not conform to the specification for the title and, if the appellant proposes a different title for the position, an explanation of how that existing title more accurately describes the duties of the position than the current or proposed title. If requested by a representative of the Commission, the appeal shall also include a completed position classification questionnaire and an organizational chart. If the appellant's supervisor has not signed the questionnaire within five working days of receipt of the questionnaire from the appellant, the appellant may forward the questionnaire to the appropriate representative of the Commission without the supervisor's signature but with a notation of the date of presentation to the supervisor.

1. A representative of the Civil Service Commission shall review the appeal, request additional information if needed, order a desk audit where warranted and issue a written decision letter. The decision letter shall be issued within 180 days of receipt of the appeal and of all completed documentation as required by the Commission representative, and shall include a summary of the duties of the position, findings of fact, conclusions, a notice to the employee or authorized employee representative of appeal rights to the Civil Service Commission and a determination that:

- i. The position is properly classified;
- ii. The position is properly classified, but that out-of-title duties are being performed, in which case the Commission representative shall order, in writing, the immediate removal of inappropriate duties; or
- iii. The position should be reclassified, in which case normal reclassification procedures shall be initiated.

(e) Appeals from the decision of the Commission representative to the Civil Service Commission may be made by an employee, authorized employee representative or local appointing authority. The appeal shall be submitted in writing within 20 days of receipt of the decision letter and include copies of all materials submitted, the determination received from the lower level and statements as to which portions of the determination are being disputed and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered. When new information and/or argument is presented, the appeal may be remanded to the prior level.

1. The Civil Service Commission may render a decision based on the written record or appoint an independent classification reviewer. If the Commission appoints an independent classification reviewer to conduct an informal review of the appeal, all parties will be advised of the review date and given the opportunity to present their arguments before the reviewer. An employee may be represented by counsel or by a union representative.

2. The classification reviewer shall submit a report and recommendation to the Commission within 30 days of the review. The report and recommendation shall include an analysis of the duties of the position as they relate to the job specification, findings, conclusions and the recommendation. The report and recommendation shall be sent to all parties with notice that exceptions are to be filed within 15 days of receipt of the report and recommendation. Exceptions must be served on all parties. If exceptions are filed, cross-exceptions may be filed within 10 days of receipt of exceptions.

(f) If an appeal is granted by the Civil Service Commission, the effective date of implementation shall be:

1. In State service, the pay period immediately after 14 days from the date an appropriate Civil Service Commission

representative first received the appeal or reclassification request, or at such earlier date as directed by the Commission; or

2. In local service, the date an appropriate representative of the Commission first received the appeal or reclassification request, or at such earlier date as directed by the Commission.

(g) The decision by the Commission is the final administrative determination.

(h) See N.J.A.C. 4A:10-2 for enforcement of determinations by the Commission.

Amended by R.1993 d.424, effective September 7, 1993.

See: 25 N.J.R. 1916(a), 25 N.J.R. 4064(a).

Amended by R.2012 d.009, effective January 3, 2012.

See: 43 N.J.R. 2404(a), 44 N.J.R. 70(a).

Rewrote (c) through (f); and in (g) and (h), substituted "Commission" for "Commissioner".

#### Case Notes

Thirty day rule regarding departmental decision promulgated after departmental hearing and, therefore, not applicable (citing former N.J.A.C. 4:5-1.5). Appeal of Darcy, 114 N.J.Super. 454, 277 A.2d 226 (App.Div.1971).

## SUBCHAPTER 4. COMPENSATION

### 4A:3-4.1 General provisions

(a) In local service, appointing authorities shall establish compensation plans which provide for paying employees in reasonable relationship to their job titles.

1. Each appointing authority shall provide a current copy of its compensation plan to the Department of Personnel, and shall provide any subsequent modifications within 20 days after adoption.

2. When a salary range is established for a job title, an employee shall not be paid a base salary below the minimum or above the maximum established for that range.

3. An appointing authority may request information and technical assistance from the Department of Personnel in developing compensation plans.

(b) In State and local service, the Department of Personnel may audit an appointing authority's payroll records to determine compliance with Title 11A, New Jersey Statutes, Title 4A, N.J.A.C., and orders issued by the Commissioner or the Board.

(c) In local service, payroll records may be audited through on-site examinations, submission of payrolls for specified time periods, or a combination of both. Upon request by the Department of Personnel, an appointing authority shall submit a payroll, certified by an authorized financial

officer, which contains the following information and such other information as may be requested:

1. Name of jurisdiction;
2. Name of department;
3. Names, titles and social security numbers of employees;
4. Actual amount of pay for pay period, including dates employed;
5. Annual rate of pay; and
6. Beginning and ending dates for current pay period.

(d) In State service, the Commissioner shall establish, maintain and approve changes in a compensation plan for all employees in the career and unclassified services. See N.J.A.C. 4A:3-2.5 for Senior Executive Service compensation.

1. The compensation plan shall establish pay rates and a series of salary ranges.
2. Each employee in the career and unclassified services shall be paid within the salary range or at the pay rate assigned to the employee's job title and pay shall be adjusted in accordance with this subchapter, except as otherwise provided by law, rule or action of the Commissioner.

**Case Notes**

Bd. of Educ. violated equal pay provisions of Fair Labor Standards Act by paying less to female custodial workers than male custodial workers for equal work requiring equal skill, effort, and responsibility (citing former N.J.A.C. 4:1-7.1 and 7.3). *Brennan v. Bd. of Educ.*, Jersey City, New Jersey, 374 F.Supp. 817 (D.N.J.1974).

Public health officer reaching maximum salary within salary range by virtue of completing five years of service is entitled to increases as range itself increases; officer receiving maximum salary whose labor grade is

elevated by union contract does not become entitled to maximum salary for new grade until completion of five years in new grade. *Brown v. City of Jersey City*, 289 N.J.Super. 374, 674 A.2d 185 (A.D.1996).

The Commission's suggested salary standards are not binding upon local government units (citing former N.J.A.C. 4:1-7.1(b)). In the Matter of Pemberton Twp. Mun. Utilities Authority, 205 N.J.Super. 31, 500 A.2d 18 (App.Div.1985).

Validity of appeals panel in salary disputes. *Abramson v. Farrell*, 122 N.J.Super. 30, 298 A.2d 705 (1972).

Judicial relief. In re Senior Appeals Examiners, 60 N.J. 356, 290 A.2d 129 (1972).

**4A:3-4.2 Job evaluation: State service**

(a) Each new job title shall be evaluated, and existing job titles reevaluated, based upon the New Jersey Job Content Evaluation System as approved by the Commissioner. Class codes shall be designated for job titles through this evaluation process. However, the Commissioner may, in appropriate circumstances, designate a job title as no-range, meaning that no class code is designated, or may assign a single rate, and may include restrictions on salary payments for such titles.

(b) Once the class code for a job title is designated, the salary range shall be determined according to workweek and work year as follows (see N.J.A.C. 4A:6-2.2 and 2.3 for designation of workweek):

1. The salary range for NL and NE titles shall be the same as the class code;
2. The salary range for 35 hour and 3E titles shall be one range lower than the class code;
3. The salary range for 40 hour, 4E and N4 titles shall be one range higher than the class code;