

RULE ADOPTIONS

BANKING

(a)

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Notice of Readoption

Bank Service Corporations

Readoption: N.J.A.C. 3:14

Authority: N.J.S.A. 17:1-15.e and 17:9A-24.4.

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

Effective Date: November 22, 2016.

New Expiration Date: November 22, 2023.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3:14 were scheduled to expire on January 8, 2017. The rules implement N.J.S.A. 17:9A-24.1 et seq., and provide the banking industry with standards for the formation of and services provided by bank service corporations. Bank service corporations perform bank services, other than the taking of deposits, for their stockholders or other institutions.

The rules provide definitions of key terms, such as “affiliate,” “appropriate Federal banking agency,” “bank,” “bank services,” “bank service corporation,” “banking institution,” “invest,” and “limited liability company.”

The rules identify services that bank service corporations are permitted to provide without application to the Commissioner of Banking and Insurance (Commissioner). The rules also identify services that may be performed only upon application to the Commissioner, the procedure for filing such applications, and the standards for the Commissioner’s approval or disapproval of such applications.

The chapter also prohibits a bank service corporation from discriminating in providing bank services to banking institutions that do not own stock in the bank service corporation, except that a bank service corporation may charge nonstockholding banking institutions a price reflecting the full cost of providing such services, including the cost of capital and a reasonable return thereon, and except that a bank service corporation may refuse to provide bank services if the services are available elsewhere at a comparable cost or are beyond the reasonable capacity of the bank service corporation.

The Department of Banking and Insurance has reviewed these rules and has determined that the rules should be readopted without change. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c, these rules are hereby readopted and shall continue in effect for a seven-year period.

CIVIL SERVICE

(b)

CIVIL SERVICE COMMISSION

Leaves, Hours of Work and Employee Development

Readoption with Amendments: N.J.A.C. 4A:6

Adopted Repeals: N.J.A.C. 4A:6-1.6 and 1.7

Proposed: January 4, 2016, at 48 N.J.R. 5(a).

Adopted: November 15, 2016, by the Civil Service Commission, Robert M. Czech, Chairperson.

Filed: November 15, 2016, as R.2016 d.171, **without change**.

Authority: N.J.S.A. 11A:2-6.d, 11A:3-7, 11A:6-1 through 11A:6-28, 18A:31-2, 30:4-178, 34:11B-1 et seq., 38:23-2, 38A:1-1, 38A:4-4, 40A:14-177, and 52:14-26.2; P.L. 2008, c. 29 and P.L. 2001, c. 351; Executive Order No. 12 (1990) and Executive Order No. 88 (2003); 10 U.S.C. § 10101, 29 U.S.C. §§ 201 et seq., 29 U.S.C. §§ 2601 et seq., 38 U.S.C. §§ 4301 et seq., 38 U.S.C. §§ 4311 et seq., and 42 U.S.C. §§ 12101 et seq.; and 29 CFR 825.

Effective Dates: November 15, 2016, Readoption;

December 19, 2016, Amendments and Repeals.

Expiration Date: November 15, 2023.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1.d(1), Governor Christie extended the expiration date from May 31, 2016 to May 31, 2017. See 48 N.J.R. 1365(a).

Summary of Hearing Officer Recommendations and Agency

Responses:

A public hearing on this readoption with amendments and repeals was held on February 3, 2016, in Trenton, New Jersey. Walker Ristau served as hearing officer. One comment was received on the readoption with amendments and repeals at that time, and no recommendations were made by the hearing officer. One written comment was received. The record of the public hearing may be reviewed by contacting Christopher Myers, Assistant Director, Division of Appeals and Regulatory Affairs, Civil Service Commission, PO Box 312, Trenton, New Jersey 08625-0312.

COMMENT: Debra Williams, a Judiciary employee, requested that employees approved for donated leave be permitted to use that leave intermittently. Ms. Williams also stated that appointing authorities should be given more flexibility to administer the donated leave rules so that they, who are best able to monitor what is going on with the employee, would be able to respond as circumstances with the employee change.

RESPONSE: The Commission understands Ms. Williams’s concerns. However, the intent of the donated leave program is to provide employees the opportunity to donate sick or vacation leave to other employees who are suffering from a catastrophic health condition or injury, which is expected to require a prolonged absence from work and who have exhausted all of their accrued leave time. Thus, the use of intermittent donated leave clearly conflicts with the intent of this rule. Nevertheless, the Commission notes that the use of additional, short-term donated leave upon return to work may be appropriate in limited situations. See *In the Matter of T.C.* (CSC, decided June 3, 2015). Accordingly, the donated leave rules currently provide flexibility to appointing authorities to administer its donated leave program.

COMMENT: Jean Publee opposed leave for emergency civilian duty. She also opposed school volunteer leave, as “taxpayers already pay huge sums [of money] to school employees.” She further stated that public employees should be prevented from taking paid leave to run for elected office and that benefits should not be paid to employees on voluntary furlough. Ms. Publee suggested that no state employee should be allowed leave for more than one year. In this regard, she stated that unused vacation and sick leave should expire at the end of the year. Furthermore, Ms. Publee presented that all State employees should work 40 hours a week and that the State should not make rules for local appointing authorities, as they should be able to make their own rules regarding holiday leave. Ms. Publee inquired into how sick days are compensated under the donated leave program.

RESPONSE: The basis for the rules concerning emergency civilian duty leave and leave to run for elected office, accumulation of vacation and sick leave, benefits received while on voluntary furlough, and observed holidays is statutory. Therefore, the amendments suggested by Ms. Publee cannot be implemented via the rulemaking process.

The rules concerning school volunteer leave were implemented pursuant to Governor Whitman’s initiative to encourage State employees to volunteer their services to New Jersey schools and in consultation

with Department of Education officials. The rule encourages State employees to share their special skills and interests with students and allows them to provide appropriate assistance to teachers and students. Moreover, school volunteer leave can help schools that are otherwise financially strapped to provide a better education to their students. Although there are some costs to State agencies and participating local governments in providing additional paid leave, these costs are minimal based on the 20-hour annual limit for school volunteer leave. Moreover, local government participation in the program is not mandatory.

Regarding her suggestion that all State employees work 40 hours a week, the Commission observes that not all positions require employees to work 40 hours a week and those that work 35 hours a week are only compensated for 35 hours a week. Accordingly, requiring appointing authorities to make their employees work 40 hours a week is unnecessary and could be cost prohibitive. With respect as to how sick days are compensated under the donated leave program, sick days donated to the donated leave recipient are treated for compensation purposes the same as any other statutorily authorized paid leave.

COMMENT: Jean Publee also commented that wages, pensions, and other benefits for public employees should be reduced or cut entirely. She stated that public employees arrive to work late and that only supervisors should keep time records of their employees. Ms. Publee also suggested that the online comment submission form should provide a copy of the comment to the commenter.

RESPONSE: These comments are outside the purview of the proposed readoption of Chapter 6. However, a commenter's comments are available when published in the New Jersey Register.

Federal Standards Statement

With the exception of N.J.A.C. 4A:6-1.4, Sick leave procedures: State service, 1.11, Military leave, and 1.21B, Federal family and medical leave, N.J.A.C. 4A:6-1 through 6 are not subject to any Federal requirements or standards. Although N.J.A.C. 4A:6-1.4 is subject to medical confidentiality requirements of the Americans With Disabilities Act, 42 U.S.C. §§ 12101 et seq., this section does not exceed Federal requirements or standards.

With respect to N.J.A.C. 4A:6-1.11, a Federal standards analysis is not necessary, as the rule section meets, but does not exceed, Federal statutory provisions concerning rights of employees who are in the uniformed service. Specifically, the provisions in N.J.A.C. 4A:6-1.11 that now permit an appointing authority to reschedule an employee's work time to avoid conflict with required military duty would ensure that the employee's rights under Federal law are protected. See 38 U.S.C. § 4311. Additionally, requirements concerning Coast Guard reservists are consistent with 10 U.S.C. § 10101.

As for N.J.A.C. 4A:6-1.21B, which contains informational provisions on the FMLA, subsection (j) provides that, in State service, FMLA leave without pay shall not be deducted from seniority for layoff purposes. Although the Federal law (29 U.S.C. §§ 2601 et seq.) does not include such a guarantee for seniority, the Civil Service Commission adopted this provision in 1994 in accordance with its rulemaking powers and authority to regulate layoffs in civil service jurisdictions. See N.J.S.A. 11A:2-6.d and 11A:8-1.

Therefore, a Federal standards analysis is not necessary.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 4A:6.

Full text of the adopted amendments follows:

SUBCHAPTER 1. LEAVES OF ABSENCE

4A:6-1.1 General provisions

(a) In local service, appointing authorities shall establish types of leaves and procedures for leaves of absence.

1. (No change.)

2. An appointing authority may grant a permanent employee a leave of absence without pay for a period not to exceed one year. A leave may be extended beyond one year for exceptional circumstances upon request of the appointing authority and written approval of the Chairperson or designee.

3.-4. (No change.)

(b) (No change.)

(c) Records of all employee leaves of absence and types of leave shall be maintained by State and local appointing authorities and reported to the Civil Service Commission for the official State record in the prescribed manner and form.

(d)-(e) (No change.)

4A:6-1.2 Vacation leave

(a)-(f) (No change.)

(g) Appointing authorities may establish procedures for the scheduling of vacation leave. Vacation leave not used in a calendar year because of business necessity shall be used during the next succeeding year only and shall be scheduled to avoid loss of leave, provided, however, that:

1. In State service, vacation leave not taken by an employee in the career, unclassified, or senior executive service in a given year because of duties directly related to a state of emergency declared by the Governor shall accumulate until, pursuant to a plan established by the employee's appointing authority and approved by the Chairperson or designee, the leave is used or the employee is compensated for that leave;

2. In State service, vacation leave not taken by an employee in the career, unclassified, or senior executive service who is called to active duty in response to the continuing global war on terrorism, armed conflict with Iraq, or other areas of heightened tension throughout the world, including the defense of the Homeland Security of the United States, shall accumulate until, pursuant to a plan established by the employee's appointing authority and approved by the Chairperson or designee, the leave is used or the employee is compensated for that leave; and

3. In local service, vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the employee's appointing authority and approved by the Chairperson or designee, the leave is used or the employee is compensated for that leave.

(h)-(k) (No change.)

4A:6-1.4 Sick leave procedures: State service

(a)-(h) (No change.)

(i) An appointing authority shall provide the Civil Service Commission with a record of an employee's unused sick leave when the employee separates from State service. A representative of the Civil Service Commission shall provide an appointing authority with a record of an employee's unused sick leave if an employee is reemployed. Upon reemployment, an employee is entitled to utilize any unused sick leave from the previous period of employment. Such unused leave carried over shall be used before any leave accrued after reemployment. However, such unused leave carried over shall not be counted for purposes of Supplemental Compensation on Retirement. See N.J.A.C. 4A:6-3.2.

(j) (No change.)

4A:6-1.5 Vacation, administrative, and sick leave adjustments: State service

(a)-(g) (No change.)

4A:6-1.6 and 1.7 (Reserved)

4A:6-1.10 Leave without pay: State service

(a) In State service, an appointing authority may, with approval from the Chairperson or designee, grant leaves of absence without pay to permanent employees for a period not to exceed one year unless otherwise provided by statute. A leave may be extended beyond one year for exceptional situations upon request by the appointing authority and written approval by the Chairperson or designee.

1. An appointing authority may, with approval from the Chairperson or designee, grant leaves of absence without pay to nonpermanent career service State employees for exceptional situations. Such leaves shall not exceed six biweekly pay-periods, or the equivalent, and shall not continue beyond termination of the appointment. Such leaves may be extended up to an additional six months, upon request of the appointing authority and written approval by the Chairperson or designee, in cases

of personal illness or disability. Leave without pay for nonpermanent employees may be terminated at any time.

2. (No change.)

(b)-(c) (No change.)

(d) Appointing authorities shall set procedures subject to review by the Chairperson or designee for leave without pay.

(e) (No change.)

4A:6-1.14 Education leave: State service

In State service, an appointing authority may, with approval from the Chairperson or designee, grant an employee in the career, senior executive, or unclassified service education leave with or without pay for the purpose of obtaining training that is of direct value to the State, but is not available through State inservice training programs. See N.J.A.C. 4A:6-4.6 for tuition aid programs.

4A:6-1.22 Donated leave program

(a)-(f) (No change.)

(g) In local service, an appointing authority may establish a donated leave program, which shall be consistent with the provisions of (a) through (f) above, with approval of the Chairperson or designee.

1. The appointing authority shall submit to the Chairperson or designee a donated leave program proposal no later than 30 days before the planned implementation of the program. The proposal shall include a summary of consultations with affected negotiations representatives concerning the program and name the donated leave program administrator for the appointing authority.

2. The appointing authority shall not implement a donated leave program unless the program has been approved by the Chairperson or designee.

3. The appointing authority shall retain all records concerning implementation of an approved donated leave program subject to an audit by a representative of the Civil Service Commission.

4. The appointing authority may suspend or terminate the donated leave program at any time upon 30 days written notice of such suspension or termination to the Chairperson or designee, all affected employees, and labor negotiations representatives.

4A:6-1.23 Voluntary furlough program

(a) (No change.)

(b) In local service, an appointing authority may establish a voluntary furlough program, which may differ in detail but which shall be consistent with the purpose of this section, with approval of the Chairperson or designee.

1. The appointing authority shall submit to the Chairperson or designee, through the appropriate regional office, a voluntary furlough program proposal no later than 30 days before the planned implementation of the program. The proposal shall specify departments to be affected, employees or titles to be affected, include a summary of consultations with affected negotiations representatives concerning the program and name the voluntary furlough program administrator for the appointing authority.

2. The appointing authority shall not implement a voluntary furlough program unless the program has been approved by the Chairperson or designee.

3. The appointing authority shall retain all records concerning implementation of an approved voluntary furlough program subject to an audit by a representative of the Civil Service Commission.

4. (No change.)

(c) (No change.)

(d) An employee who wishes to extend a voluntary furlough beyond 30 days may request up to 60 days' furlough extension leave without pay. This furlough extension leave shall be taken in blocks of 10 work days, which need not be consecutive.

1.-2. (No change.)

3. Requests for furlough extension leave are subject to the approval of the appointing authority and the Chairperson or designee.

(e)-(k) (No change.)

SUBCHAPTER 2. HOURS OF WORK

4A:6-2.5 Inclement weather or emergency conditions: State service

(a)-(b) (No change.)

(c) Each State department and agency shall annually review its criteria for the designation of essential attendance employees and, based on these criteria, update its roster of such employees. Employees so designated shall be notified no later than October 31 of each year of this designation and shall at that time be provided with a copy of the department or agency's Essential Employee Attendance Plan. The Plan shall include the responsibilities, requirements, and expectations of such employees in the event that a period of inclement weather or other adverse situation requires the curtailment of State operations or services.

1. Each State department and agency shall provide the Civil Service Commission and affected union representatives with its updated roster of essential attendance employees no later than November 15 of each year. The Civil Service Commission shall make this information available to the Office of Emergency Management.

(d) (No change.)

4A:6-2.6 Flexitime programs: State service

(a)-(b) (No change.)

(c) Civil Service Commission assigned workweeks for affected titles, for example, 35 or 40 hours, shall be retained.

(d) Establishment, modification, or termination of a flexitime program shall not become effective without the approval of the Chairperson or designee. Requests for these actions shall be submitted at least 30 days in advance of the proposed effective date to the Civil Service Commission and shall include:

1.-9. (No change.)

(e) An appointing authority may authorize a complete or partial temporary suspension of the flexitime program if required by operational needs. Within 10 days of the suspension of the program, the appointing authority shall submit to the Chairperson or designee a fully detailed justification and specify the duration of the suspension.

(f)-(h) (No change.)

4A:6-2.7 Alternative workweek programs: State service

(a)-(c) (No change.)

(d) Civil Service Commission assigned workweeks for affected titles, for example, 35 or 40 hours, shall be retained.

(e) Appointing authorities shall develop, subject to approval by the Chairperson or designee, appropriate sick, vacation, and administrative leave schedules for employees participating in an alternative workweek program.

(f) (No change.)

(g) Establishment, modification, or termination of an alternative workweek program shall not become effective without the approval of the Chairperson or designee. Requests for these actions must be submitted at least 30 days in advance of the proposed effective date to the Civil Service Commission and shall include the same items listed in N.J.A.C. 4A:6-2.6(d).

(h) An appointing authority may authorize a complete or partial temporary suspension of the alternative workweek program if required by operational needs. Within 10 days of the suspension of the program, the appointing authority shall submit to the Chairperson or designee a fully detailed justification and specify the duration of the suspension.

(i)-(k) (No change.)

4A:6-2.8 Adjusted hours of operation: State service

(a) (No change.)

(b) Civil Service Commission assigned workweeks, for affected titles, for example, 35 or 40 hours, shall be retained.

(c) Except for emergency situations of limited duration, adjustments in hours of daily or shift operation shall not become effective without the approval of the Chairperson or designee. Requests for these actions should be submitted at least 30 days in advance of the proposed effective date to the Civil Service Commission and shall include:

1.-6. (No change.)

(d) (No change.)

SUBCHAPTER 3. SUPPLEMENTAL COMPENSATION ON RETIREMENT

4A:6-3.1 Eligibility: State service

(a) (No change.)

(b) Employees in the categories in (a) above shall be eligible for SCOR upon separation from employment based on retirement from a pension system administered by the State of New Jersey.

1. Employees removed for cause after an opportunity for a hearing, who retire in lieu of removal, or who retire under circumstances which would warrant removal, shall not be eligible for SCOR. However, the Chairperson or designee may allow SCOR in such cases where removal was based on a medical disability or where the Commission finds sufficient mitigating circumstances to warrant supplemental compensation.

2.-5. (No change.)

4A:6-3.4 SCOR procedures: State service

(a)-(b) (No change.)

(c) After receipt of the notice of retirement approval and SCOR application, the appointing authority shall forward to the Civil Service Commission within 45 days:

1.-3. (No change.)

(d) The Chairperson or designee shall review the request to ensure that eligibility criteria as set forth in N.J.A.C. 4A:6-3.1 have been met.

1. (No change.)

2. If eligibility criteria have not been met, the request shall be disapproved and the employee shall be provided written notice of the reasons for disapproval and the right to appeal to the Civil Service Commission.

(e)-(g) (No change.)

4A:6-3.5 SCOR: Intergovernmental transfers

(a)-(b) (No change.)

(c) The sending jurisdiction shall not pay SCOR to any law enforcement officer, including a sheriff's officer and a county correction officer, approved for an intergovernmental transfer, and shall certify to the receiving jurisdiction and the Civil Service Commission that no SCOR was paid.

SUBCHAPTER 4. HUMAN RESOURCE DEVELOPMENT: TRAINING, EDUCATION, CAREER DEVELOPMENT, AND EMPLOYEE ASSISTANCE PROGRAMS

4A:6-4.1 General provisions

(a) In local service, appointing authorities may implement Human Resource Development (HRD) programs and may, subject to the terms and approval of the Chairperson or designee, participate in programs set forth in this subchapter.

(b) In State Service, the Chairperson or designee shall establish training and education, performance evaluation, and assistance programs for employees. The Chairperson or designee shall also review and approve career development programs for employees. These responsibilities may be delegated to agencies other than the Civil Service Commission only by written order of the Chairperson or designee.

4A:6-4.2 Civil Service Commission functions: State service

(a) The Chairperson or designee shall administer an Office of Training, which is responsible for the following functions:

1. Planning, development, and delivery of all training and education programs for State employees, except for programs exempted by Executive Order No. 12 (1990) or by the Chairperson through a written delegation order. The Office of Training shall also be responsible for the planning, development, and delivery of all evaluation (see, for example, N.J.A.C. 4A:6-4.5) and assistance programs (see, for example, N.J.A.C. 4A:6-4.3 and 4.6) for State employees.

i. Delivery of training and education programs, evaluation programs, and assistance programs shall be provided by the New Jersey Community College Consortium for Workforce and Economic Development. If the New Jersey Community College Consortium for Workforce and Economic Development is available to deliver a specific

program, the Office of Training shall negotiate the most cost-effective contract with an outside vendor or consultant to deliver the program. Under limited circumstances, Office of Training staff shall deliver training.

2.-3. (No change.)

(b) In cooperation with State agencies, the Office of Training shall assess State government Human Resource Development (HRD) needs and develop training and education plans and programs for each agency and for the State government as a whole. The Office of Training shall deliver or, consistent with (a)li above, arrange the delivery of these programs, as appropriate.

1. Neither agency employees nor outside vendors or consultants may develop or deliver training and education programs that the Office of Training is capable of developing or delivering, as provided in (a)li above, without the prior written approval of the designated Office of Training representative. If the Office of Training is not capable of developing or delivering, as provided in (a)li above, a program of instruction that an agency needs, the Office of Training director may authorize the agency to assign employees temporarily to develop or deliver the program, or to hire a pre-approved vendor or consultant for the same purpose. The Office of Training staff shall supervise and direct the delivery of any such program.

2. No State agency except the Office of Training may employ or retain any person whose primary duty is staff training or human resource development, except as specifically permitted by Executive Order No. 12 (1990) or by the Chairperson or designee through a written delegation order.

(c) (No change.)

(d) The Office of Training shall evaluate the results and effects of all State government HRD programs based on the following criteria:

1.-4. (No change.)

(e) The Office of Training shall maintain a comprehensive system to record the training and education experiences of its clients, including all State government employees.

(f) Each State agency may designate a customer liaison to the Office of Training, whose responsibilities, which shall be in addition to his or her other job assignments in the agency, shall be the following:

1. Review and approve the designation of members of the agency to participate in HRD programs, subject to eligibility criteria established by the Office of Training.

2. Assist the Office of Training in setting HRD priorities related to the agency's mission and goals.

4A:6-4.4 Certified Public Manager Program: State service

(a) The Office of Training shall develop and administer the Certified Public Manager Program (CPM) for supervisors and managers. The program shall meet criteria established by the National Certified Public Managers Consortium. The Chairperson or designee shall be Chief Administrative Officer of the program. The Director of the Office of Training shall be the Program Director.

(b) The Program shall consist of progressive levels of instruction delivered jointly by the Office of Training and an institution of higher education selected by the Civil Service Commission.

4A:6-4.5 Career Development Programs: State service

(a) Departments or agencies may, with the written approval of the Office of Training Director and consistent with their goals, workforce planning, and technological changes, implement programs that prepare employees to move to new assignments or career opportunities.

1. A department or agency shall seek written approval from the Office of Training Director for a program referred to in (a) above by submitting a written plan. This plan shall include the program's goals, objectives, target population, projected outcome, and evaluation criteria for the program's success.

(b) (No change.)

4A:6-4.6 Tuition aid program: State service

(a) (No change.)

(b) The tuition aid program may be submitted for approval as part of the HRD plan (See N.J.A.C. 4A:6-4.3) or as a separate plan for approval by the Chairperson or designee and shall include:

- 1.-5. (No change.)
- (c)-(f) (No change.)

(g) Each State department or agency shall also submit semi-annual reports to the Civil Service Commission in such form and detail and according to such time schedule as the Department shall prescribe and include:

- 1.-4. (No change.)
5. Other information as may be requested by the Chairperson or designee.

4A:6-4.8 Employee interchange program

(a) The Chairperson or designee may approve an Employee Interchange Program that is intended to improve the management of government through shared experience, communication, and learning among public, private, and academic organizations. See N.J.S.A. 52:14-6.10 et seq., and 11A:2-11.j.

- (b) (No change.)
- (c) An interchange program shall provide that:

1. The length of any interchange shall not be more than 12 months or less than two months. The Chairperson or designee may approve an assignment of less than two months in emergency situations. The Chairperson or designee may extend an interchange for up to an additional six months to complete work in progress.

- 2.-4. (No change.)

(d) An employee may not be assigned to an interchange program for more than 12 months in any 36-month period, unless the length of the interchange is extended by the Chairperson or designee pursuant to (c)1 above.

(e) An employee interchange may be terminated by either the receiving or sending agency by giving 30 days written notice to the other agency, the employee, and the Civil Service Commission.

- (f) (No change.)

4A:6-4.9 Internship programs: State service

- (a) (No change.)

(b) A proposed internship program must be submitted in writing to the Chairperson or designee by the agency head and include a detailed description of the program, its benefits, program participants, program costs, and relevant data. The Chairperson or designee may request additional information and may approve, disapprove, or modify the request.

4A:6-4.10 Employee Advisory Service: State service

(a) The Civil Service Commission shall establish an Employee Advisory Service (EAS) to assist State employees in achieving and maintaining the highest level of job performance of which they are capable. EAS shall provide access to counseling, rehabilitative, and/or community services for a State employee who:

- 1.-4. (No change.)
- (b)-(g) (No change.)

SUBCHAPTER 5. PERFORMANCE EVALUATION

4A:6-5.1 General provisions

(a) In local service, an appointing authority may establish an employee performance evaluation program. A performance evaluation system must be reviewed and approved by the Chairperson or designee in order to be used in promotions or layoff.

(b) In State service, a Performance Assessment Review (PAR) program shall apply to all employees in the career service, and those in unclassified titles as designated by particular departments or agencies.

1. (No change.)
2. The PAR program shall use standardized forms and rating scales for different performance appraisal models to be designated by the Chairperson or designee and, except as provided in (d) below, a three-level rating scale to include the following ratings:
 - i.-iii. (No change.)
 3. (No change.)
- (c) (No change.)

(d) The Chairperson or designee may modify the PAR program based on specific employee or agency needs and implement for State appointing authorities, unless precluded by a collective negotiations agreement, a five-level rating scale to include the following ratings:

- 1.-5. (No change.)

4A:6-5.2 PAR procedure: State service

- (a)-(b) (No change.)

(c) When a rating below the Successful level is received, a performance conference shall be conducted after three months or such shorter period of time as determined by the supervisor.

- (d)-(e) (No change.)

(f) A representative of the Civil Service Commission may require additional reports, information, or audits of an agency's PAR program.

(g) A complaint that an entire agency or unit is in violation of this subchapter shall be presented to the PAR coordinator within the personnel office for the subject department. The PAR coordinator shall, within 30 days, investigate the complaint, respond in writing to the individual(s) presenting the complaint, and implement remedial action as appropriate. If the individual(s) is (are) dissatisfied with the response of the PAR coordinator, or if no action has been taken within 30 days of the complaint, the individual(s) may appeal the matter to the PAR Program Coordinator, Civil Service Commission.

- (h) (No change.)

4A:6-5.3 PAR use and review: State service

(a) In both a three-level and a five-level Performance Assessment Review (PAR) rating scale, an employee receiving an annual PAR rating below the Successful level shall be denied an anniversary date increment.

1. An appointing authority may request an anniversary date increment for an employee who was denied an increment because of receiving an Unsatisfactory rating in a three-level or a five-level rating scale, but whose performance has subsequently improved. If approved by the Chairperson or designee, such increment shall not be effective until a pay period beginning at least 90 days after the employee's anniversary date. In the case of a five-level rating scale, if an employee who had received a rating of Two-Needs Improvement/Development demonstrates an improved performance within 90 days following the rating, the increment shall be restored to the employee retroactively.

2. (No change.)
- (b)-(g) (No change.)

SUBCHAPTER 6. AWARDS PROGRAM

4A:6-6.1 General provisions

- (a)-(b) (No change.)

(c) The awards program applies to all employees in the executive branch of State government, whether in the career, senior executive, or unclassified service, including autonomous agencies within executive departments; applicable employees in the Judiciary; and all employees in the Office of Legislative Services.

4A:6-6.2 New Jersey Employee Awards Committee: State service

(a) The New Jersey Employee Awards Committee (Committee) shall be established in the Civil Service Commission under the supervision of the Chairperson or designee. The Committee shall consist of seven persons, each of whom shall be employed in a different department in the Executive Branch.

1. Committee members shall be appointed by the Governor upon nomination by the Chairperson or designee, for staggered terms of three years or until a successor is appointed. If a vacancy on the Committee occurs by reason other than expiration of term, the vacancy shall be filled for the unexpired term. No member shall serve more than two consecutive full terms.

- 2.-3. (No change.)

4. The Secretary shall submit monthly reports to the Chairperson or designee concerning operations of the Awards Program, which shall include data on activity level, processing time, and program benefits to the State. This data will also be furnished to each agency's chief executive officer. The Secretary shall submit an annual report of the

Committee’s activities to the Governor through the Chairperson or designee.

5. The administrative work of the Committee shall be performed by the Secretary and other necessary staff designated by the Chairperson or designee.

(b) (No change.)

4A:6-6.10 Appeals: State service

(a)-(c) (No change.)

(d) The Committee shall render the final administrative decision, which shall not be subject to further appeal to the Chairperson or designee or the Civil Service Commission.

(e) (No change.)

(a)

CIVIL SERVICE COMMISSION

Layoffs

Readoption with Amendments: N.J.A.C. 4A:8

Proposed: January 4, 2016, at 48 N.J.R. 12(a).

Adopted: November 15, 2016, by the Civil Service Commission, Robert M. Czech, Chairperson.

Filed: November 15, 2016, as R.2016 d.174, **without change**.

Authority: N.J.S.A. 11A:2-6.d, 11A:2-11.h, 11A:2-28, 11A:6-28, and 11A:8-1 through 11A:8-4.

Effective Dates: November 15, 2016, Readoption;
December 19, 2016, Amendments.

Expiration Date: November 15, 2023.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1.d(1), Governor Christie extended the expiration date from June 20, 2016, to June 20, 2017. See 48 N.J.R. 1445(a).

Summary of Hearing Officer Recommendations and Agency Responses:

A public hearing on this readoption with amendments was held on February 3, 2016, in Trenton, New Jersey. Walker Ristau served as hearing officer. Seven comments were received on the readoption with amendments at that time, and no recommendations were made by the hearing officer. No written comments were received. The record of the public hearing may be reviewed by contacting Christopher Myers, Assistant Director, Division of Appeals and Regulatory Affairs, Civil Service Commission, PO Box 312, Trenton, New Jersey 08625-0312.

1. COMMENT: Marcus King, President, Teamsters Local 331, Atlantic County, expressed concern regarding possible temporary layoffs in Atlantic County. He asserted that in the past, furlough days were not evenly applied among employees. He requested that alternatives to temporary layoffs be explored.

RESPONSE: The readoption of Chapter 8 does not alter the provisions concerning alternatives to layoffs. Moreover, specific layoff plans are outside the purview of the readoption with amendments of Chapter 8.

2. COMMENT: Lisa Willett, Sophia Kent-Howerton, Margaret Bennett, Barbara Tardibyono and Tom Willett, Teamsters Local 331, Atlantic County, stated that a temporary layoff plan would not solve the current fiscal problem in Atlantic County. They asserted that the economic situation in Atlantic County requires a broader solution, which could include casinos paying more in taxes. They argued that their suggestions have not been heard. They requested that the Civil Service Commission consider the impact of the plan and the financial costs to Atlantic County employees. In this regard, they contended that temporary layoffs will make it harder for employees to make ends meet, as many are living from paycheck to paycheck.

RESPONSE: The Commission understands these concerns. However, as indicated in the Response to Comment 1, specific layoff plans are outside the purview of the readoption with amendments of Chapter 8.

3.COMMENT: Jeanine Williams, Teamsters Local 331, Atlantic County, inquired into the difference between mandatory and voluntary furlough.

RESPONSE: Voluntary furloughs are listed as an alternative to layoff per N.J.A.C. 4A:8-1.2(c). The purpose of a voluntary furlough is to lessen the need for a reduction in force by allowing employees to voluntarily take up to 30 days leave from work without pay in a calendar year with accrual of leave time, anniversary dates, and seniority treated as if the employee is in a pay status. See N.J.A.C. 4A:6-1.23(a). A mandatory furlough is a term that is sometimes used instead of temporary layoff where employees in a specific department are required to be off work for specific day(s).

Federal Standards Statement

A Federal standards analysis is not necessary, as there are no Federal standards or requirements applicable to the subject matter of the rules readopted with amendments. The rules readopted with amendments concern layoffs of New Jersey civil service employees and are authorized by State law, as indicated in the notice of proposal Summary and notice heading.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 4A:8.

Full text of the adopted amendments follows:

SUBCHAPTER 1. PROCEDURES

4A:8-1.2 Alternatives to layoff

(a)-(b) (No change.)

(c) Alternatives to layoff may include, but are not limited to:

1. Granting of leaves of absence without pay to permanent employees, without loss of seniority for purposes of this Title, subject to the approval of the Chairperson or designee;

2.-5. (No change.)

(d)-(e) (No change.)

(f) Appointing authorities shall submit a plan for alternatives to layoff and obtain approval from the Chairperson or designee prior to implementation. The plan shall include time periods for all alternatives, a statement of the employees’ right to be restored to prior status should a layoff occur during such time periods, and summaries of employee status and salary at the conclusion of time periods.

4A:8-1.3 Pre-layoff actions

(a)-(c) (No change.)

(d) Upon request by an appointing authority, assistance may be provided by Civil Service Commission staff in implementing pre-layoff measures.

4A:8-1.4 Review by the Civil Service Commission

(a) At least 30 days prior to issuance of layoff notices, or such other period as permitted by the Chairperson or designee, the following information shall be submitted by an appointing authority to the Chairperson or designee:

1.-8. (No change.)

(b) In local jurisdictions having a performance evaluation program approved by the Civil Service Commission, the appointing authority shall also submit the names of permanent employees who have received a rating of Unsatisfactory or equivalent in their permanent title within the 12-month period preceding the effective date of the layoff.

(c) Following submission of the information required in (a) above, all vacant positions identified in (a)5 above shall be filled, except under exceptional circumstances with the approval of the Chairperson or designee, and may only be filled through layoff procedures.

(d) Upon review of the information required to be submitted in (a) and (b) above, or in the absence of timely submission of such information, the Chairperson or designee may take appropriate remedial action, including:

1.-4. (No change.)

(e) Upon approval of the layoff plan, the a representative of the Civil Service Commission shall provide affected negotiations representatives with a copy of the plan as it affects their represented employees.