

CIVIL SERVICE

CIVIL SERVICE COMMISSION

Selection and Appointment

Make-up Examinations

Additions to Eligible Lists

Certain Persons Returning from Military Service

Adopted Rule: N.J.A.C. 4A:4-4.6A

Adopted Amendments: N.J.A.C. 4A:4-2.9, 2.17, 3.6, 6.1 and 6.2

Proposed: March 18, 2013 at 45 N.J.R. 520(a)

Adopted: March 13, 2014 by the Civil Service Commission, Robert M. Czech,
Chair/CEO

Filed: March 13, 2014 d. , without change.

Authority: N.J.S.A. 11A:2-6(d) and 11A:4-1 et seq.; and P.L. 2008, c. 29 and P.L.
2012, c. 49

Effective Date: April 7, 2014

Expiration Dates: N.J.A.C. 4A:3 – 11/18/16

N.J.A.C. 4A:4 and N.J.A.C. 4A:6 – 2/20/16

Summary of Hearing Officer Recommendations and Agency Responses:

A public hearing was held on April 10, 2013 in Trenton, New Jersey.
Christopher Myers served as hearing officer. No comments were provided during

the public comment period. The hearing officer recommended adoption of the proposal without change. The record of the public hearing may be reviewed by contacting Henry Maurer, Director, Division of Appeals and Regulatory Affairs, Civil Service Commission, P.O. Box 312, Trenton, New Jersey 08625-0312.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rule and amendments govern placement of certain applicants on civil service open competitive eligible lists and are not subject to any Federal standards or requirements.

Full text of the adoption follows:

SUBCHAPTER 2. COMPETITIVE EXAMINATIONS

4A:4-2.9 Make-up examinations

(a) Make-up examinations, except for professional level engineering promotional examinations under (b) below and public safety open competitive and promotional examinations under (c) below, may be authorized for the following reasons:

1. Error by the Civil Service Commission or appointing authority;
2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;

3. Documented serious illness or death in the candidate's immediate family;

4. Natural disaster;

5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation;

6. When required for certain persons returning from military service (see N.J.A.C. 4A:4-4.6A); and

7. Other valid reasons.

(b) For professional level engineering promotional examinations, make-up examinations may be authorized only in cases of:

1. Debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination;

2. Death in the candidate's immediate family as evidenced by a copy of the death certificate;

3. A candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation;

4. When required for certain persons returning from military service (see N.J.A.C. 4A:4-4.6A); or

5. Error by the Civil Service Commission or appointing authority.

(c) For police, fire, correction officer, sheriff's officer, juvenile detention officer, and other public safety open competitive and promotional examinations, make-ups may be authorized only in cases of:

1. Death in the candidate's immediate family;

2. Error by the Civil Service Commission or the appointing authority;

3. When required for certain persons returning from military service (see N.J.A.C. 4A:4-4.6A); or

4. A catastrophic health condition or injury, which shall be defined as either:

i. A life-threatening condition or combination of conditions; or

ii. A period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days.

(d) Subject to applicable provisions in N.J.A.C. 4A:4-4.6A, employees returning from military leave shall have an opportunity to take promotional examinations that have not yet been administered, or make-up examinations for active promotional

lists for which they were eligible while on military leave. If the eligible passes the examination, his or her name will be placed on the eligible list, for prospective appointment only, based upon the score obtained, as if the examination had been taken when originally held, except that in the case of certain persons returning from military service, applicable provisions of N.J.A.C. 4A:4-4.6A shall govern placement on an eligible list.

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

(f) Except as provided in N.J.A.C. 4A:4-4.6A, a candidate must request, in writing, a make-up examination, within five days after the examination date due to one of the valid reasons set forth in (a), (b), or (c) above, as applicable. However, a candidate must submit a written request for a make-up examination within five days of receipt of the examination notice in case of one of the valid reasons set forth in (a), (b), or (c) above, as applicable, of which a candidate is aware upon receipt of the examination notice, except that the candidate shall follow the procedures set forth in N.J.A.C. 4A:4-4.6A, where applicable.

(g) Make-up examinations will be administered to the extent possible under the same conditions as the original examination but, in the case of public safety

examinations under (c) above, shall be different in content from the original examination.

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

(i) All candidates taking make-up examinations, except physical performance examination, shall, as a precondition to taking the make-up examination, be required to sign a statement that they have no knowledge of the content of the examination as a result of information gained from or furnished by other candidates who participated in the original examination, or third parties, provided that:

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

(j) In extraordinary circumstances, such as an examination that requires a multiple assessment of a candidate which results in a group consensus rating by a panel of experts, a make-up examination shall not be held. In such cases, candidates will be so notified at least 45 days prior to the date of the examination.

The only exceptions will be documented error on the part of the Civil Service Commission or appointing authority, in which case a make-up may be granted if practicable, or where N.J.A.C. 4A:4-4.6A applies in the case of certain persons returning from military service.

4A:4-2.17 Application processing fees

(a) A \$25.00 processing fee shall be charged for each open competitive and promotional examination application, except as provided as follows:

1. Veterans shall be charged a processing fee of \$15.00 for each open competitive and promotional examination application, unless the examination falls under paragraphs (a)2 or 3 below.

2. The Civil Service Commission shall establish a fee for each application for an open competitive or promotional examination for a law enforcement officer or firefighter title. The fee shall not exceed the cost of developing, procuring, and administering the examination. Receipts derived from this application fee shall be appropriated to the Commission for use in developing, procuring, and administering law enforcement officer and firefighter examinations.

3. When announcements for an examination list more than one title area (such as police, sheriff, and corrections), a processing fee shall be charged for each title area selected by the applicant.

4. An application processing fee shall not be charged where the application is being filed for placement on a list in accordance with N.J.A.C. 4A:4-4.6A.

(b) The fee shall be paid by check or money order, made payable to NJCSC, and submitted with the application.

(c) Applications received without a fee shall not be processed unless the applicant submits, within the time required by written notice from the Civil Service Commission, the required fee or, for open competitive applications, proof of exemption as described in (d) below.

(d) An applicant for an open competitive examination will be granted a waiver of the fee if the applicant provides documentation showing that, as of the closing date, he or she is receiving General Assistance benefits, benefits under the Work First New Jersey Act or Supplemental Security Income. Proof must consist of one of the following:

1. General Assistance--a copy of the applicant's benefits identification card (if one was issued) or a letter from the applicant's local municipal welfare director.

2. Work First New Jersey Act--a copy of the applicant's Families First card.

3. Supplemental Security Income--a copy of the applicant's latest annual award letter or proof of the applicant's Medicaid identification number for S.S.I. benefits.

(e) The fee is for processing purposes only and does not guarantee admittance to an examination or appointment to a position. The fee shall not be refunded for any reason except untimely filing of the application or cancellation of the examination.

1. The fee shall not be refunded when the cancellation is due to the lack of eligible applicants ("no admits") or when no eligible applicant appears for testing ("no show").

2. When an examination is cancelled at the request of the appointing authority, the appointing authority shall reimburse the Civil Service Commission for fees refunded to applicants.

4A:4-3.6 Additions to eligible lists

(a) The Chairperson of the Civil Service Commission or designee may add names to an eligible list at any time during the life of the list under the following circumstances:

1. A make-up examination has been given and a candidate has received a passing score;

2. To correct an error by the Civil Service Commission;

3. To implement an appeal decision;

4. Where a third party, such as a college or the Veterans Administration, has submitted documents to correct an administrative error; or

5. To place an eligible on a list in accordance with N.J.A.C. 4A:4-4.6A.

(b) When the name of an eligible is added to an existing list to correct an error made by the Civil Service Commission, an appropriate representative of the Commission shall determine the retroactive certification and/or appointment rights. When the name of an eligible is added to an existing list for any other reason, the Chairperson or designee shall determine the effect of the action on certifications and prior permanent appointments. See also N.J.A.C. 4A:4-1.4 for conditional regular appointments.

SUBCHAPTER 4. CERTIFICATION FROM ELIGIBLE LISTS

4A:4-4.6A Certain persons returning from military service

(a) In accordance with P.L. 2012, c. 49, a member of the New Jersey National Guard or reserve component of the United States Armed Forces who is on an open competitive eligible list but is called to active Federal duty prior to the list's expiration date, and who does not return from active Federal duty until after the list's expiration, may apply for placement, within 12 months of expiration, on an active open competitive eligible list.

1. To be considered for placement on an active open competitive eligible list, the person shall:

i. Complete an examination application;

ii. Meet the eligibility requirements provided in the examination announcement for the active list, notwithstanding that the applicant has not filed the application by the announced closing date; and

iii. Submit sufficient proof of active Federal duty. Submission by the individual of a completed Form DD214 shall be considered sufficient proof.

2. The applicant shall not be required to pay the examination application processing fee set forth in N.J.A.C. 4A:4-2.17.

3. If the applicant fails to meet the eligibility criteria enumerated in (a)1 above, the applicant shall be disqualified from placement on an active eligible list. See N.J.A.C. 4A:4- 6.2 and 6.3 for actions against disqualified persons and disqualification appeals.

(b) The active eligible list for which the applicant applies shall be for the same title and jurisdiction, and result from the same test mode, as the expired list, except that:

1. In the case of entry level law enforcement testing, the local jurisdiction, if any, need not be the same, due to the fact that such testing is announced on a Statewide basis and all eligibles are placed in a single pool from which certifications

are issued. See (d) below for procedures to follow when the test mode is not the same.

(c) In placing the name of the applicant on an active eligible list:

1. Except as provided in (d) and (e) below, the applicant shall retain the final average earned on the test that resulted in the expired list; and

2. The applicant's name shall be added to the active list, for prospective appointment only, immediately following the disabled veterans and veterans, if any.

i. If the applicant is awarded veterans or disabled veterans status in accordance with N.J.A.C. 4A:5-1.1 prior to the promulgation of the active list, the applicant's name shall be placed among the veterans or disabled veterans on the list, as appropriate, based on the applicant's retained final average.

(d) If the active list has not resulted from the same test mode, the test mode for both the expired list and the active list shall be reconciled in the best interest of the applicant as provided in (d)2 below.

1. There are five broad categories, or modes, of competitive examination: multiple choice; written (short answer or essay); oral communication; performance of endurance, skill, or aptitude (for example, physical performance, typing, in-basket exercise); and unassembled (an evaluation of education, training, and/or experience).

2. Accordingly, as an example, if the test mode used to generate the expired list was a multiple choice and the test mode for the active list was a performance of endurance, skill or aptitude, the test modes shall be considered different and the applicant shall be scheduled as soon as possible for a make-up examination utilizing the same test mode as that used for the active list.

i. The applicant's final average earned on the make-up examination shall apply to the active list. The applicant's name shall be added to the active list in accordance with the provisions of (c)2 above.

ii. If the applicant fails the make-up examination, the applicant's name shall not be placed on the active list and the applicant shall not have a further opportunity to be placed on an active list within one year of filing the application.

(e) If both the expired list and the active list have resulted from an unassembled examination, the education, training, and/or experience on the application filed by the applicant in accordance with (a)1 above shall be evaluated based on the announced closing date for the test that resulted in the active list.

1. Where the unassembled examination method for both tests is ranked, the higher of the two final averages earned by the applicant shall apply to the active list. Where the unassembled examination method for both tests is unranked, the applicant shall receive the same score as all other eligibles on the active list.

2. Where the unassembled examination method is different (for example, the first being unranked and the second ranked), the applicant shall receive the final average in accordance with the unassembled examination method resulting in the active list, and this final average shall apply to the active list.

3. The applicant's name shall be added to the active list in accordance with the provisions of (c)2 above.

(f) An applicant may request the placement of his or her name on a maximum of two active open competitive eligible lists in accordance with this section, subject to (a) through (e) above and the following requirements:

1. If the first active list on which the applicant's name is placed under this section expires in less than 12 months following the filing of an application, and the applicant so requests in writing, he or she shall be placed on a second active list, so long as placement on the second active list can be effected within 12 months following the filing by the applicant of an examination application upon returning from active Federal duty.

2. No examination application processing fee shall be charged for an applicant's written request to be placed on a second active list.

3. If the applicant's name cannot be placed on a second active list within 12 months following the filing of the application, the applicant's name shall not be placed on a second active list.

4A:4-6.1 Examination and selection disqualification

(a) A person may be denied examination eligibility or appointment when he or she:

1. Lacks the job requirements;
2. Is ineligible, by law, for employment in the title;
3. Is physically or psychologically unfit to perform effectively the duties of the title. However, an injury incurred in the armed forces shall not be considered a disqualification unless the Chairperson of the Civil Service Commission or designee considers the condition incapacitating;
4. Has failed to pass examination procedures;
5. Has been removed from the public service for disciplinary reasons after an opportunity for a hearing;
6. Has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process;
7. Has a prior employment history which relates adversely to the title;
8. Has failed to pay the required application processing fee in a timely manner, or for open competitive examination, has failed to provide documentation of exemption from the application processing fee in a timely manner; or

9. Other sufficient reasons.

(b) Except where precluded by law, a person who is disqualified pursuant to (a)5 and 7 above may, for good cause, be admitted to an examination and, with the appointing authority's concurrence, certified for appointment.

(c) Any action specified in this section shall be effective upon receipt of written notice of disqualification.

(d) See N.J.A.C. 4A:4-4.6A for disqualifications of certain persons returning from military service.

4A:4-6.2 Actions against disqualified persons

(a) A disqualification under N.J.A.C. 4A:4-6.1 may result in:

1. Rejection of examination application;
2. Refusal to test an individual;
3. Refusal to place a candidate's name on an eligible list;
4. Refusal to certify an eligible's name;
5. Removal of an eligible's name from the eligible list;
6. Removal from employment; or
7. Other appropriate action.

(b) See N.J.A.C. 4A:4-4.6A for disqualifications of certain persons returning from military service.

(c) Major disciplinary procedures shall be applicable to removal of an employee who is permanent or serving in a working test period.