

PUBLIC NOTICES

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Notice of Action on Petition for Rulemaking Special Education Program Confidentiality

N.J.A.C. 1:6A-18.2(a)

Petitioner: Mr. John Paff.

Take notice that the Office of Administrative Law (OAL) has determined to deny a petition for rulemaking from John Paff (petitioner). The petitioner requests “consideration of an amendment to N.J.A.C. 1:6A-18.2(a) that will more vigorously protect the identities of children and their parents in the written decisions of Administrative Law Judges.” The rule currently provides that in a written decision, the judge shall use initials rather than full names when referring to the child and parents or guardian, and may take other necessary and appropriate steps, in order to preserve their interest in privacy. A notice acknowledging receipt of the petition and summarizing its contents was published in the June 15, 2015, New Jersey Register at 47 N.J.R. 1350(a). Consistent with the requirements of N.J.A.C. 1:30-4.2, the matter was referred for further deliberation and recommendation of further action for 90 days on July 7, 2015, a notice of which was published in the August 3, 2015, New Jersey Register at 47 N.J.R. 2004(a).

Pursuant to N.J.A.C. 1:6A-18.2, a judge shall use initials rather than full names in a decision when referring to the child and parent(s) or guardian in order to preserve their interest in privacy. In addition, the judge may take other necessary and appropriate steps, in order to preserve their interest in privacy.

Having considered alternative means to identify the student and parents or custodians, the OAL believes that the use of initials in the decision is adequate to preserve their privacy interests. The rule provides flexibility for the judge to take other necessary and appropriate steps if warranted on a case-by-case basis.

The OAL disagrees that an amendment is necessary to more vigorously protect the privacy interests of parents and students and accordingly has determined that no such amendment is necessary.

In accordance with N.J.A.C. 1:30-4.2, a copy of this notice has been mailed to the petitioner.

CIVIL SERVICE

(b)

CHAIRPERSON OF THE CIVIL SERVICE COMMISSION

Notice of Action on Petition for Rulemaking General Rules and Departmental Organization Definition of “Police Department”

N.J.A.C. 4A:1-1.3

Petitioner: Matthew Lutz, County Investigator, Cumberland County.

Take notice that on August 5, 2015, Henry Maurer, Director of the Division of Appeals and Regulatory Affairs, on behalf of the Chair/CEO of the Civil Service Commission, received a petition for rulemaking asking for an amendment to N.J.A.C. 4A:1-1.3 that would define “Police Department” as:

“Any department, agency, force, division, or other organization within state or local service, other than a county sheriff’s

department, which employs law enforcement officers with full police powers as authorized by NJ statute.”

The rule currently does not define “Police Department.” The petitioner, Matthew Lutz, County Investigator, Cumberland County, suggests that the proposed amendment would allow the titles of Campus Police Officer, State Park Police Officer, Conservation Officer 1, 2, and 3 and Human Services Police Officer to be considered eligible for placement on police reemployment lists with unlimited duration. The petitioner argues that the New Jersey State Park Police, where he was formerly employed, is essentially a police department. He states that it functions “as a semi-autonomous division within the Department of Environmental Protection with a rank structure identical to any other police department” and faces challenges similar to those of other police departments regarding reductions in manpower. Furthermore, the petitioner argues that while most statutes refer to police departments as municipal organizations, in most cases there are “contextual clues” that make this clear. In N.J.S.A. 11A:4-9, however, there is no indication that the legislature intended to limit police departments to municipal police departments. Additionally, the petitioner cites statutes, such as N.J.S.A. 34:13A-15, that clearly include county and State organizations in the definition of “police department.” Notice of receipt of the petition was published in the September 8, 2015, New Jersey Register at 47 N.J.R. 2310(a).

The Chair/CEO certifies that this petition was duly considered pursuant to law, and, upon due deliberation, has decided to deny the rule petition. The rule change that the petitioner requests is precluded by N.J.S.A. 11A:4-7, which specifically establishes only two kinds of reemployment lists of unlimited duration: police and fire. N.J.S.A. 11A:4-9.d reiterates the limitation on reemployment lists to only police, sheriff’s officer, and fire titles, specifically stating that such lists shall include “former permanent uniformed members of a police department, sheriff’s office, or fire department who have resigned in good standing.” No mention is made of other public safety titles or other law enforcement agencies in this provision. Additionally, when N.J.S.A. 11A:4-7 and 11A:4-9 were first adopted in 1986, the title of State Park Police Officer did not exist. Rather, the title State Park Ranger was utilized. Significantly, at the time Title 11A was adopted in 1986, incumbents in the State Park Ranger, as well as the Conservation Officer, title series did not have the power to effectuate arrests and carry firearms. The power of incumbents in these title series to arrest and carry firearms became effective by legislative enactment on August 15, 2003. Moreover, the State Park Ranger title was renamed State Park Police Officer in June 2005. Although there is a dearth of legislative history regarding N.J.S.A. 11A:4-7 and 11A:4-9, State Park Rangers and Conservation Officers did not possess the power to effectuate arrests and carry firearms at the time these provisions were enacted in 1986. Therefore, it is unlikely that the legislature intended to consider agencies that utilize those titles as police departments.

N.J.S.A. 11A:4-9.c provides that reemployment lists for all titles other than those provided for in subsection d shall last for three years. The titles of Campus Police Officer, State Park Police Officer, Conservation Officer 1, 2, and 3 and Human Services Police Officer are covered by N.J.S.A. 11A:4-9.c by virtue of their clear exclusion from subsection d. In this regard, the Civil Service Commission has long held that the creation of a reemployment list of unlimited duration is an exception to the general concept of limited duration lists, and thus should not be given an expansive interpretation. See *In the Matter of Kyle Vealey, Department of Corrections* (CSC, decided July 30, 2008). Finally, it is noted that when recently amending N.J.S.A. 11A:4-9 to include sheriff’s officer reemployment lists of unlimited duration, the New Jersey Legislature showed no indication that the statute should be broadly interpreted to include any other State law enforcement officers. See P.L. 2015, c. 17. Accordingly, the Chair/CEO cannot recommend to the Civil Service Commission an amendment to civil service rules as requested by the petitioner.