

CIVIL SERVICE

CHAIRPERSON OF THE CIVIL SERVICE COMMISSION

Notice of Receipt and Action on Petition for Rulemaking

General Rules and Departmental Organization

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.”

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 *N.J.S.A. 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 *N.J.S.A. 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.