

subject title instead of appointing her from the (S0089R) eligible list where she is the number one ranked veteran eligible. Should this be the case, the appellant requests that she be appointed to the position.

In a letter dated November 7, 2014, the Division of Appeals and Regulatory Affairs (DARA) asked the appointing authority to explain why advancement/reassignment procedures can now be used to fill a vacant Judiciary Clerk 4 position instead of using the subject open competitive list.

In response, the appointing authority explained that once a vacant position is approved to be filled, per Administrative Office of the Courts directive and bargaining unit agreement, the Vicinage will post the vacancy as an advancement/reassignment opportunity open to Vicinage 13 employees. If qualified Vicinage 13 employees do not apply, the next step is for it to post the advancement/reassignment opportunity Judiciary-wide. Thereafter, the appointing authority presents that if it still cannot fill the position due to a lack of qualified candidates, it will request from the Civil Service Commission (Commission) a certified list and proceed with the selection of a candidate from the certified list. The appointing authority highlights that it followed this recruitment process when it was looking to fill a Judiciary Clerk 4 position in Hunterdon County when it requested the certified list from the Commission, which is the list Ms. Hackworth references in her communication.

It is noted that the internal advancement/reassignment opportunity for Judiciary Clerk 4 in this matter is for a position in Somerset County. As such, although the Judiciary Clerk 4 (S0089R) open competitive announcement and the internal advance/reassignment opportunity for Judiciary Clerk 4 are for the same title, they are actually announcements for two separate positions in two different divisions, the Finance Division and the Operations Division.

It is also noted that in 1998, the Judiciary's Classification and Compensation Plan (Plan) consolidated more than 600 job titles into ten broad bands with broad compensation levels. For example, pursuant to the Plan, the titles of Judiciary Clerk 1,2,3, and 4 are found in the Judiciary Support Staff Band, levels 1,2,3, and 4, respectively. In accordance with job banding methodology, movement to a higher level within the broad band is considered an advancement, not a promotion as specified in *N.J.A.C.* 4A:1-1.3. Thus, Civil Service promotional procedures are not utilized when making an advancement where a job title is assigned to a broad band.¹

¹ Effective June 2, 2014, the Commission adopted rules governing job banding for utilization in the Executive Branch of State service, however, those rules do not apply to the Judiciary. See *N.J.A.C.* 4A:3-3.2A(b)4.

CONCLUSION

N.J.A.C. 4A:4-2.3(a) provides that vacancies shall be filled by promotional examination unless the Commission determines that it is in the best interest of the career service to hold an open competitive examination. In other words, under Civil Service rules, there is a preference to fill positions from qualified current employees before utilizing open competitive examinations procedures. Although job banding does not utilize the rules governing promotional procedures, the process is similar as it provides opportunity for advancement to higher levels in the broad band to permanent employees based on their demonstration of pre-established competencies and a determination of their relative merit and fitness.

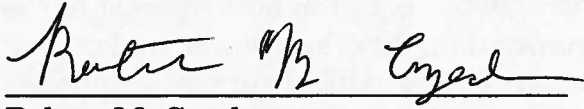
In the instant matter, the appointing authority issued an internal announcement utilizing job banding criteria to advance or reassign internal employees to the subject title. As the position that it the subject of this internal announcement is in Somerset County, this is a separate position and in a different division than the position that the appointing authority was initially attempting to fill using an open competitive list in Hunterdon County. As such, the appointing authority's use of job banding to appoint qualified internal employees to the subject title prior to making an appointment from the (S0089R) open competitive eligible list, is wholly consistent with the plan approved by this agency in 1998 and the preference for advancement of current employees based on merit and fitness. Moreover, as the appellant's title is Clerk and the advancement announcement was only open to Judiciary Clerk 4, Judiciary Clerk 3, and Judiciary Clerk 2, she could not apply for this position. However, if the job banding selection process does not result in finding an acceptable candidate, the appointing authority should then utilize the subject open competitive list to fill the position. If this is the case, the Commission reiterates that, in accordance with *N.J.S.A. 11A:5-6*, unless there is a basis to remove Ms. Hackworth's name from the list for cause, if she expresses interest in a position from a future certification for the (S0089R) eligible list, she should be appointed from the list. Further, in the event the appointing authority fails to utilize the (S0089R) eligible list by its expiration date of July 17, 2016, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that this request be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

**DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4th DAY OF FEBRUARY, 2015**



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and
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