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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Police Sergeant
Promotional Lists

CSC Docket No. 2015-3037

Administrative Appeal

ISSUED: JUN - 8 2015 (JH)

The Division of Agency Services (Agency Services) requests that *N.J.A.C. 4A:4-2.6(a)2* be relaxed to allow the March 30, 2014 closing date for certain promotional examinations for Police Sergeant to be extended to the closing date of the 2015 Police Sergeant announcements.¹

By way of background, on January 1, 2014, this agency issued 33 promotional announcements in various jurisdictions for Police Sergeant, with a closing date of March 30, 2014. On June 1, 2014, the announcement for County Police Sergeant (PC0150S), Camden County, was issued with a closing date of August 31, 2014. To be considered eligible, applicants needed to possess three years of continuous permanent service in the title of Police Officer or County Police Officer, respectively, as of the appropriate closing dates.² It is noted that the State of New Jersey and this agency were in litigation with the United States Department of Justice (USDOJ) with regard to the selection process utilized by the State since 2000 for promotion to the level of Police Sergeant. During this process, the parties agreed to the terms of a settlement which was formulated into a Consent Decree. However, this agency is involved in ongoing discussions with representatives of the USDOJ regarding test content and format. As a result, the examination for the 2014 Police Sergeant announcements has not yet been held.

¹ It is noted that the 2015 Police Sergeant announcements are tentatively scheduled to be issued on August 1, 2015 with a closing date of September 30, 2015.

² The same examination is utilized for both the Police Sergeant and County Police Sergeant titles.

Agency Services indicates that due to the delay in holding the examination, there are over 300 Police Officers in the jurisdictions, whose promotional tests were announced in 2014, who would now be eligible for the examination. Therefore, it wishes to issue amended announcements for those jurisdictions. However, *N.J.A.C. 4A:4-2.6(a)2* provides that if a promotional examination announcement is amended, all requirements must be met by the announced closing date whether or not the application filing date is changed. Agency Services requests that this requirement be relaxed to allow applicants, who would meet the announced requirements as of the closing date of the 2015 Police Sergeant announcements, to apply for the 2014 announcements. Further Agency Services indicates that the new application filing date will be consistent with the 2015 announcements.

CONCLUSION

N.J.A.C. 4A:4-2.6 provides, in part:

- (a) Applicants for promotional examinations shall meet all of the following criteria by the announced closing date:
 1. Have one year of continuous permanent service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open. Aggregate service shall be calculated in the same manner as seniority as set forth in *N.J.A.C. 4A:4-2.15*;
 2. Be currently serving in the announced unit scope in a title to which the examination is open and meet all other requirements contained in the announcement. If an examination announcement is amended, all requirements must be met by the announced closing date whether or not the application filing date is changed;

In *In the Matter of Police Sergeant Promotional Lists* (CSC, decided September 19, 2012), Selection Services had requested that *N.J.A.C. 4A:4-2.6(a)2* be relaxed to allow it to amend the closing date of the 2010 and 2011 announcements for Police Sergeant to September 30, 2012, the same closing date as the 17 additional announcements in 2012 for the title of Police Sergeant. The Commission found that pursuant to *N.J.A.C. 4A:1-1.2(c)*, good cause existed to relax *N.J.A.C. 4A:4-2.6(a)2* and extend the closing date. Specifically, it noted that due to discussions with the USDOJ regarding litigation on the Police Sergeant examination, this agency had been unable to hold the promotional examination for the 2010 and 2011 Police Sergeant announcements and there were additional employees in those jurisdictions who would meet the announced requirement of

three years of continuous permanent service in the title of Police Officer if the closing date was amended to September 30, 2012. The Commission referred to *In the Matter of Police Sergeant Promotional Lists* (CSC, decided August 17, 2011)³, in which it noted that it generally supported the inclusion of as many applicants as possible for an examination, which is consistent with the basic tenets of Civil Service to maximize the opportunities to make appointments based on merit and fitness. See *New Jersey Constitution*, Article VII, sec. 1, par. 2 and *N.J.S.A. 11A:1-2(a)*. See also, *O'Malley v. Department of Energy*, 109 *N.J.* 309, 316 (1987) (“[T]he legislative goal of appointments based on merit and fitness is the paramount consideration”). It is noted that the Police Sergeant examination for the 2010, 2011 and 2012 announcements was administered on June 1, 2013 and the resultant eligible lists were promulgated on August 7, 2014.

Accordingly, in the instant matter, Agency Services requests that *N.J.A.C. 4A:4-2.6(a)2* be relaxed to allow it to amend the closing date of the 2014 announcements for the promotional examination for Police Sergeant and County Police Sergeant to the closing date of the 2015 Police Sergeant announcements. Specifically, it argues that due to discussions with the USDOJ regarding the Police Sergeant examination, it has still been unable to hold the promotional examination for the 2014 Police Sergeant and County Police Sergeant announcements. It also notes that there are additional employees in those jurisdictions who would meet the announced requirement of three years of continuous permanent service in the title of Police Officer and County Police Officer if the closing date was amended to the closing date of the 2015 Police Sergeant announcements. Similar to *In the Matter of Police Sergeant Promotional Lists*, *supra*, an amended closing date will increase the number of eligibles and encourage competition. *N.J.A.C. 4A:1-1.2(c)* provides that a rule may be relaxed for good cause in a particular situation. Therefore, under these circumstances, good cause exists to relax the provisions of *N.J.A.C. 4A:4-2.6(a)2* and allow Agency Services to amend the closing date of the 2014 announcements to the closing date of the 2015 Police Sergeant announcements.

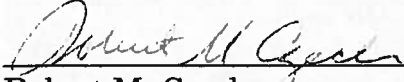
ORDER

Therefore, it is ordered that this request be granted.

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

³ In *In the Matter of Police Sergeant Promotional Lists* (CSC, decided August 17, 2011), Selection Services requested that *N.J.A.C. 4A:4-2.6(a)2* be relaxed to allow the closing date for the 2010 Police Sergeant announcements be extended to November 30, 2011.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3RD DAY OF JUNE , 2015



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Attachment

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