



STATE OF NEW JERSEY

In the Matter of Daniel Butchko, The :
College of New Jersey :

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-1283 :
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Intergovernmental Transfer

ISSUED: DECEMBER 5, 2018 (SLK)

The College of New Jersey (TCNJ), on behalf of Daniel Butchko, requests that he be permitted to participate in the intergovernmental transfer program and to complete his working test period as a Police Officer with Mount Laurel.

By way of background, Butchko was initially hired by TCNJ as a Security Officer on January 5, 2015. Thereafter, he was provisionally promoted to Campus Police Officer Recruit on August 3, 2015 and then he was provisionally promoted to Campus Police Officer on August 13, 2016. TCNJ indicates that as a result of an administrative error, Butchko’s movement was not accurately reflected, as his personnel record indicates that his position as a Campus Police Officer was provisional from August 13, 2016 until October 18, 2018, at which time his personnel record was updated to reflect this his position as a Campus Police Officer was permanent. Accordingly, Butchko is now in his working test period and his intergovernmental transfer is not permitted absent a rule relaxation.

Further, TCNJ indicates that Butchko applied for a position with the Mount Laurel Police Department in September 2018, prior to his personnel record reflecting that his position as a Campus Police Officer was permanent, and more than one year after he was internally promoted as a Campus Police Officer. After Mount Laurel informed Butchko that it wished to appoint him, Butchko was informed that his personnel record did not indicate his permanent status as a Campus Police Officer. Therefore, he was advised that in order to complete his

intergovernmental transfer, he would need to correct his personnel record. TCNJ asserts that Butchko is a highly regarded employee who has earned his position with Mount Laurel and he should not miss out an advancement opportunity due to its mistake. TCNJ, Mount Laurel and Butchko have agreed that, should this matter be granted, his employment with TCNJ as a Campus Police Officer shall terminate on December 31, 2018 and his appointment as a Mount Laurel Police Officer shall be effective January 1, 2019.

CONCLUSION

N.J.A.C. 4A:3-3.7(c) provides that upon regular appointment, trainees must successfully complete a working test period.

N.J.A.C. 4A:3-3.7(d)1 provides that in the case of trainees and recruits only, the length of the training period shall be designated by the job specification for the particular title.

N.J.A.C. 4A:3-3.7(j) provides that the advancement of the successful, permanent trainee, apprentice, recruit, or intern, as applicable, to the appropriate primary title shall be accomplished without the usual promotional examination process, but rather by regular appointment of the employee to the appropriate title.

N.J.A.C. 4A:4-7.1A(a) states that an intergovernmental transfer is the movement of a *permanent* employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A.

N.J.A.C. 4A:4-5.2(d) states in pertinent part that persons appointed to entry level law enforcement officer titles shall serve a 12-month working test period in order to obtain permanent status.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

In this matter, Butchko was provisionally appointed as a Campus Police Officer Recruit on August 3, 2015. Thereafter, on August 13, 2016, he was provisionally appointed as a Campus Police Officer. Subsequently, he applied for the promotional examination, Campus Police Officer Recruit (PS3498J), TCNJ. The list promulgated on April 13, 2017 and Butchko was the second ranked eligible. However, based on TCNJ's administrative error, the list was never certified and Butchko was never permanently appointed as a Campus Police Officer Recruit.

Therefore, as Butchko was reachable as the second ranked eligible, the Commission finds that Butchko's personnel record should be corrected to reflect that he was permanently appointed as a Campus Police Officer Recruit, effective April 13, 2017, the date that the PS3498J list promulgated, which is the earliest date that he could have been permanently appointed. Further, as the job specification for Campus Police Officer Recruit indicates that appointees who successfully complete the 12-month training period will be eligible for advancement to the title of Campus Police Officer and *N.J.A.C. 4:3-3.7(j)* provides that such advancement is accomplished by regular appointment without the usual promotional procedures, his advancement to Campus Police Officer should have occurred on April 13, 2018 so long as he completed the recruit period.¹ In this regard, based on TCNJ's representations, Butchko successfully completed the 12-month training program as a Campus Police Officer Recruit. Consequently, the Commission finds that Butchko's personnel record should be corrected to reflect that he was permanently appointed as a Campus Police Officer, effective April 13, 2018. Accordingly, Butchko's 12-month working test period should have commenced on April 13, 2018.

The intergovernmental transfer rules permit the transfer of permanent State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Division of Agency Services. In this case, Butchko is not permanent since he has not completed his working test period as a Campus Police Officer. However, Mount Laurel has agreed to the transfer, indicating that it is short Police Officers and is in immediate need of fully trained law enforcement personnel. Additionally, Mount Laurel has agreed to have Butchko complete the required 12-month working test period. Given the circumstances surrounding Mount Laurel's need for trained law enforcement staff, good cause exists to relax the controlling regulatory provisions in order to permit the transfer of Butchko and to allow him to complete his working test period with Mount Laurel. However, since the duties of the Police Officer and Campus Police Officer titles do not precisely mirror each other, Butchko's 12-month working test period shall commence upon appointment as a Police Officer. *See In the Matter of Anthony DaCunza* (MSB, decided April 11, 2007).

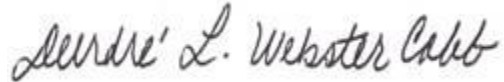
ORDER

Therefore, it is ordered that this request be granted and the personnel records of Daniel Butchko be amended as indicated above. Further, the Commission approves his intergovernmental transfer from Campus Police Officer to Police Officer. However, Butchko's 12-month working test period shall commence upon his appointment as a Police Officer, effective January 1, 2019.

¹ It is noted that per *N.J.A.C. 4A:3-3.7*, provisional service cannot be counted towards completion of the 12 month training period for recruits.

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 5th DAY OF DECEMBER, 2018



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