



STATE OF NEW JERSEY

In the Matter of Police Lieutenant
(PM3381E), Jersey City

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

CSC Docket Nos. 2024-2230

Administrative Appeal

ISSUED: July 3, 2024

Jersey City, represented by Arthur R. Thibault, Esq., requests that the announcement for Police Lieutenant (PM3381E), Jersey City be amended to reduce the one-year service requirement in the title of Police Sergeant to the completion of the working test period pursuant to *N.J.A.C. 4A:4-2.6(g)*.

By way of background, as discussed in *In the Matter of Police Lieutenant (PM3381E), Jersey City* (CSC, decided August 2, 2023), for the 2023 Police Promotional testing cycle,¹ Jersey City had exhausted the previous Police Lieutenant list (PM4118C) and as a result, the PM3381E announcement was automatically issued. Jersey City requested to opt out of the 2023 cycle but its request was denied by the Division of Agency Services (Agency Services). On appealing this matter to the Civil Service Commission (Commission), Jersey City argued, in part, that it had no intent to promote or fill Police Lieutenant vacancies and that it intended to maintain staffing at the existing level for the foreseeable future. The Commission noted that the objective of *In the Matter of Promotional Lists for Public Safety Titles* (MSB, decided April 7, 2004) was to ensure that a viable list of fully qualified candidates exists to fill vacancies. The Commission found that the record evidenced Jersey City’s historical and ongoing need for appropriate public safety protections and that with the exhaustion of the existing Police Lieutenant (PM4118C) eligible list, the PM3381E announcement was appropriate to ensure that fully qualified candidates from a complete list could be appointed if Jersey City’s needs to fill

¹ For the 2023 cycle, announcements for Police Lieutenant were issued on July 1, 2023 with a September 30, 2023 closing date. See Examination Information Alert, Police Promotional Announcement and Testing Schedule 2023 (issued January 2023) (<https://nj.gov/csc/jobs/announcements/publicsafety/pdfs/2023%20Police%20EIA.PDF>).

vacancies for Police Lieutenant were to change in the near future. Thereafter, Jersey pursued an appeal in the Appellate Division and requested a stay of the Commission's order pending the outcome of its appeal in Appellate Division. The Commission determined that Jersey City did not meet the standard for a stay pursuant to *N.J.A.C. 4A:2-2.1(c)* and denied the request. See *In the Matter of Police Lieutenant (PM3381E), Jersey City* (CSC, decided September 20, 2023).² Subsequently, by order dated December 18, 2023, Jersey City withdrew its appeal from the Appellate Division and the matter was dismissed.

The subject test was administered on October 19, 2023 and the resultant eligible list was promulgated on April 11, 2024 with the names of 68 eligibles and is set to expire on April 10, 2027.

In a letter dated April 24, 2024, Jersey City claims, in part:

[T]he [PM3381E] examination as scheduled with the one-year time in grade requirement [as of the September 30, 2022 closing date] resulted in approximately fifteen (15) potential candidates[,] who have demonstrated competency in their supervisory police positions and who would have been eligible for examination if the [PM3381E] announcement had [the closing date] been made mere weeks later[, are] being deprived of the opportunity to sit for the examination. If this result is permitted to stand, these candidates not only will be prevented from sitting for a promotional exam, and being considered for the rank of lieutenant for another three years, with an exam being held in 2027 at the earliest due to the staggered nature of police promotional examinations and the life of the current eligible list, the City will be deprived of some of its best officers as future leaders in the department.

Jersey City further claims that “reducing the time in grade to completion of the working test period would expand the scope of candidates for examination and ensure not only that the City has all of its fully-qualified candidates, but also the most qualified candidates eligible for promotion to lieutenant.” Jersey City maintains that it would also “allow a broader and more diverse pool of candidates from different backgrounds and experiences for the City to consider for potential promotion to the upper levels of police leadership if the need for promotion arises.”

CONCLUSION

N.J.A.C. 4A:4-2.6(a)1 provides that applicants for promotional examinations shall have one year of continuous permanent service for an aggregate of one year

² Included in this matter was a request for reconsideration by two Jersey City Police Sergeants, Joseph Chidichimo (who subsequently changed his name to Joseph Mangieri) and David Leon, which was also denied.

immediately preceding the closing date in a title or titles to which the examination is open. *N.J.A.C.* 4A:4-2.6(g) provides:

The time requirements specified in (a) and (b) above may be reduced to completion of the working test period if:

1. There is currently an incomplete promotional list and/or the number of employees eligible for examination will result in an incomplete list;
2. It appears that vacancies to be filled within the duration of the promotional list will exceed the maximum number of eligibles that could result from examination; or
3. Other valid reasons

At the outset, it is noted that although Jersey City does not name the “15 potential candidates” in its request, a review of available employment records finds that the following 15 Jersey City Police Sergeants would *not* have met the year in grade requirement as of the September 30, 2023 closing date for PM3381E:

Roger Boutros
 Anthony Cancel
 Kevin Hill
 David Leon
 Sean Licata
 Carlos Lugo
 Joseph Chidichimo (Mangieri)
 Melange Ramirez
 Ricardo Reyes
 Gilberto Rivera
 Glenn Rosario
 Ivan Rosario
 John Saleh
 Frank Scalcione
 Robert Smith

In this regard, a review of available information finds that these 15 individuals had been sworn in as Police Sergeants by Jersey City on November 22, 2022.³ A review

³ See “Mayor Fulop Amplifies Diverse, Effective Leadership within the Jersey City Police Department Promoting Sergeants, Lieutenants and Captains” (Press release, November 22, 2022) https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server_6189660/File/Press%20Releases/2022%20Press%20Releases/2022_11_22_Mayor%20Fulop%20Amplifies%20Diverse,%20Effective%20Leadership%20within%20the%20Jersey%20City%20Police%20Department%20Promoting%20Sergeants,%20Lieutenants,%20and%20Captains.pdf. See also, <https://www.tapinto.net/towns/jersey-city/sections/police-and->

of the record further finds that although all 15 appeared at ranks 1 through 15, on the available eligible list for Police Sergeant (PM4569C), Jersey City, which promulgated on October 20, 2022, the first certification from the PM4569C list issued on January 24, 2023 (PL230103). It is noted that PL230103 contained the names of the eligibles appearing at the ranks 1 through 15, in order: Leon, Reyes, Saleh, Scalcione, Smith, Cancel, Chidichimo (Mangieri), Lugo, Licata, Glenn Rosario, Boutros, Rivera, Hill, Ramirez, and Ivan Rosario. In disposing of PL230103, Jersey City appointed these 15 individuals effective January 24, 2023, *i.e.*, over two months after the swearing in ceremony.

While these 15 individuals would not have met the year in grade requirement by the September 30, 2023 closing date even if they had received a regular appointment date effective November 22, 2022, it is not clear from the record why Jersey City did not request an earlier certification of the PM4569C list so that these 15 officers could receive permanent appointment dates at the time of the swearing-in ceremony.⁴

With respect to Jersey City's request, as noted above, the PM3381E list contains the names of 68 eligibles. Jersey City does not now claim that it anticipates filling vacancies or even that any vacancies to be filled during the life of the list will exceed the available number of eligibles. Rather, Jersey City merely asserts that amending the announcement to completion of the working test period would potentially allow additional candidates to be considered for appointment "if the need for promotion arises." In addition, Jersey City does not argue that it has presented good cause to relax the provisions of *N.J.A.C.* 4A:4-2.6 pursuant to *N.J.A.C.* 4A:1-1.2(c), and, nevertheless, the Commission finds that such good cause is not present. Furthermore, even if Jersey City's request had met the criteria pursuant to *N.J.A.C.* 4A:4-2.6(g), it is noted that in *In the Matter of County Correction Captain (PC1189P)*

[fire/articles/fulop-promotes-68-members-of-jcpd-to-higher-ranks; and https://www.nj.com/hudson/2022/11/84-are-promoted-in-jersey-city-police-ceremony.html](https://www.nj.com/hudson/2022/11/84-are-promoted-in-jersey-city-police-ceremony.html) (behind paywall).

⁴ The Commission notes that the facts in the instant matter are somewhat similar to those in *In the Matter of Dane Coleman, et al., Police Sergeant, Jersey City* (CSC, decided July 3, 2024). As discussed in *In the Matter of Dane Coleman, et al., supra*, on November 24, 2020, Jersey City held a swearing in ceremony for 35 Police Sergeants. At the time of the swearing in ceremony, the existing certification (PL200294) did not contain the names of 14 of these officers. Rather than requesting that PL200294 be amended to include additional names or that it be cancelled, and a new certification be issued, after returning PL200294, Jersey City requested another certification of the existing list, which was issued two months after the swearing in ceremony. An announcement for Police Lieutenant (PM4118C), Jersey City was issued on July 1, 2021 but the 14 officers did not meet the year in grade requirement as of the September 30, 2021 closing date. On July 16, 2021, Jersey City requested that the year-in-grade requirement be reduced to completion of the working test period which was denied. See *In the Matter of Police Lieutenant (PM4118C), Jersey City* (CSC, decided September 22, 2021), *aff'd on recon.* (April 6, 2022). Subsequently, the Jersey City Superior Officers' Association (JCSOA) requested that these 14 officers receive retroactive appointment dates which the Commission granted. It is noted that neither Jersey City nor JCSOA has made a request for retroactive appointment dates for the 15 individuals indicated in the instant matter.

and County Correction Lieutenant (PC1202P), Hudson County, Docket No. A-2162-14T3 (App. Div. March 9, 2017), the court found that retroactively amending an announcement to the completion of the working test period was contrary to Commission regulations and was not a reasonable application of legislative policies. In this regard, the court determined that the principles of *In re Hruska*, 375 N.J. Super. 202 (App. Div. 2005), apply where the announced requirements are retroactively reduced. As such, the court found that amended requirements must be announced prior to the closing date and not retroactively. As noted previously, the subject announcement was issued with the above noted year in grade requirement on July 1, 2023 and closed on September 30, 2023. Jersey City submitted its request on April 24, 2024, *i.e.*, almost seven months after the closing date. Given this, the Commission cannot consider the request made by Jersey City.

Regarding the concern that these 15 individuals cannot be “considered for the rank of police lieutenant for another three years, with an exam being held in 2027 at the earliest due to the staggered nature of police promotional examinations and the life of the current eligible list,” as indicated in the Police Promotional Announcement and Testing Schedule (Examination Information Alert), which is available on the Commission’s website (https://nj.gov/csc/jobs/publicsafety/pdfs/2024%20Police%20EIA_2.pdf), the examination for Police Lieutenant is administered each year.⁵ As such, should Jersey City exhaust the PM3381E list prior to April 10, 2027, it may request that a new announcement be issued.⁶

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.

⁵ As indicated in the schedules for the past 20 years, typically, for those years in which the Police Lieutenant test will be administered in September, an appointing authority must request an announcement by the first day of April and the announcement is issued on the first day of June. For those years in which the test will be administered in October, typically, an appointing authority must request an announcement by the first day of May and the announcement is issued on the first day of July.

⁶ Should the PM3381E list not be exhausted prior to April 10, 2027, a new Police Lieutenant announcement would be issued for Jersey City in accordance with the 2026 Police Promotional Announcement and Testing Schedule (when it becomes available). As a result, a new Police Lieutenant list would be available upon the expiration of the PM3381E list. *See In the Matter of Promotional Lists for Public Safety Titles, supra.*

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3RD DAY OF JULY, 2024

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