

B-85



STATE OF NEW JERSEY

In the Matter of Bradford Williams,
Department of Law and Public Safety

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

CSC Docket No. 2015-2413

Request for Administrative Relief

ISSUED: MAR - 9 2015 (CSM)

The Division of Agency Services (Agency Services), on behalf of the Department of Law and Public Safety, requests that the provisions of *N.J.A.C. 4A:4-1.1(c)* be relaxed in order to allow Bradford Williams to be provisionally appointed, pending promotional examination procedures, to the competitive title of Personnel Assistant 3.

By way of background, Mr. Williams is currently permanent in the non-competitive title of Software Development Specialist Assistant. Mr. Williams' credentials were reviewed by Agency Services to determine if he satisfied the requirements for prospective provisional appointment to Personnel Assistant 3. However, Agency Services determined that Ms. Williams did not meet the requirements for the title as, although he possessed a Bachelor's degree, his application and resume demonstrated that he was performing out-of-title work as a Software Development Specialist Assistant from February 2005 to November 2009. It is noted that the requirements for Personnel Assistant 3 are a Bachelor's degree and two years of technical experience in a personnel program of a public or private organization. Applicants who do not possess the required education may substitute experience as indicated on a year for year basis. Additionally, since his permanent title of Software Development Specialist Assistant is in the non-competitive division, an appointment to Personnel Assistant 3 would have to be recorded as provisional, pending open competitive examination procedures.

In support of its instant request, Agency Services presents that due to business necessity, Mr. Williams was assigned the required out-of-title duties

performing technical personnel functions and that failure to provisionally appoint him to the subject title will have a detrimental impact on the Office of the Attorney General's responsibilities to establish and deliver human resource programs to its employees. Additionally, Agency Services notes that it does not recommend a retroactive provisional appointment date of February 10, 2015 as the appointing authority was only seeking to appoint Mr. Williams prospectively when it submitted its request for a pre-appointment evaluation.

It is noted that since the Software Development Specialist Assistant title is not related to the competitive division title of Personnel Assistant 3, Mr. Williams would be subject to open competitive examination procedures rather than promotional procedures. Therefore, it is also necessary that the provisions of *N.J.A.C. 4A:4-2.5(d)* be relaxed to announce the promotional examination to incumbents serving in the unrelated non-competitive title of Software Development Specialist Assistant who demonstrate that they meet the complete open competitive requirements.

It is noted that there are no open competitive, regular reemployment or special reemployment lists in Mr. Williams' unit scope for Personnel Assistant 3. Although the promotional list for Personnel Assistant 3 (PS9191P) is currently active and contains the names of two eligibles, one of those eligibles has been permanently appointed and the other eligible is a provisional appointee. Additionally, there is only one promotable eligible in the impacted unit scope serving in the lower in-series title of Personnel Assistant 4.

N.J.A.C. 4A:4-1.1(c) provides that a promotion may be authorized through promotional examination procedures from the non-competitive division of permanent employees who meet the open competitive requirements to: 1) a related entry level title in the competitive division; or 2) in appropriate situations, to a related above-entry level title in the competitive division.

N.J.A.C. 4A:4-2.5(d) states that when a promotion is to be made from the non-competitive division of the career service to a related title in the competitive division of the career service, the examination shall be open to all permanent employees who meet one of the following:

1. Serving in the next lower or next two lower in-series non-competitive titles and possessing the complete open competitive requirements; or
2. Serving in all related non-competitive titles and possessing the complete open competitive requirements.

N.J.A.C. 4A:4-2.5(d)5 states that in extraordinary circumstances, another appropriate title scope may be set.

N.J.A.C. 4A:4-2.6(c) provides that applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process, unless good cause is shown for an exception.

Finally, *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, New Jersey Statutes.

CONCLUSION

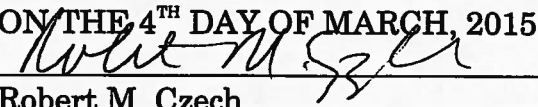
In the present matter, it is appropriate to relax the provisions of *N.J.A.C. 4A:4-1.1(c)* in order to allow for Mr. Williams' prospective provisional appointment, pending promotional examination procedures, to the competitive title of Personnel Assistant 3 consistent with the pay period he is actually appointed by the appointing authority. As a result of such an appointment, it is also appropriate to relax the provisions of *N.J.A.C. 4A:4-2.5(d)* to announce a prospective promotional examination to incumbents serving in the unrelated non-competitive title of Software Development Specialist Assistant who demonstrate that they meet the complete open competitive requirements. It is also ordered that any promotional announcement issued for Personnel Assistant 3 in Mr. Williams' unit scope be announced open to competitive division employees who meet the complete open competitive requirements and any title scope deemed appropriate by Agency Services. Finally, good cause has been established to accept Mr. Williams' out-of-title work in order to qualify him for any upcoming promotional examination for Personnel Assistant 3.

ORDER

Therefore, it is ordered that this request be granted and Mr. Williams' applicable out-of-title experience be accepted on a year-for-year basis for a prospective promotional examination for the subject title. Mr. Williams is to provide a copy of this decision with the promotional application that he submits upon examination announcement. In addition, the Division of Agency Services shall also accept applicable and documented out-of-title work experience from other promotional examination applicants.

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 MARCH, 2015


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