

CSC
B-12




STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Fire Officer 3
(PM1256N), Jersey City

Request for List Extension

CSC Docket No. 2016-726

ISSUED:  1 6 2015 (HS)

Jersey City requests the extension of the eligible list for Fire Officer 3 (PM1256N), Jersey City.

The Fire Officer 3 (PM1256N), Jersey City eligible list of eight names promulgated on October 4, 2012 and expires on October 3, 2015. To date, one certification was issued on December 13, 2012. The names of seven eligibles remain on the list.

In the instant request, the appointing authority seeks an extension of the PM1256N eligible list to December 16, 2015 due to the overlapping of two eligible lists for Fire Officer 3. Specifically, it notes that eligible list PM3588K promulgated on December 17, 2009 and expired on December 16, 2012. The appointing authority thus contends that the two-month overlap of the PM3588K and PM1256N eligible lists essentially shortened the duration of the PM1256N eligible list. It argues that an extension of the PM1256N eligible list to December 16, 2015 would ensure that the eligibles on that list will be considered for a full three years.

The Division of Agency Services (Agency Services) does not support the instant request. Initially, Agency Services notes that although both eligible lists were active from October 4, 2012 to December 16, 2012, the PM1256N eligible list in fact has a three-year duration contrary to the appointing authority's statement. Agency Services notes that the appointing authority effectuated appointments from the December 13, 2012 certification (PL121544), which contained names from both eligible lists, and has not requested a certification since then. Agency Services

further notes that upon additional inquiry, the appointing authority conveyed that per the union contract, an active list for Fire Officer 3 must exist at all times. However, Agency Services notes that a promotional announcement (PM1698S) for this title and jurisdiction was issued in December 2014; 15 candidates were tested in April 2015; and the resultant eligible list is expected to issue in October 2015, approximately at the time the PM1256N list expires.

CONCLUSION

N.J.S.A. 11A:4-6 and *N.J.A.C.* 4A:4-3.3(b)1 provide that an eligible list may, for good cause, be extended prior to its expiration date, except no list shall have a duration of more than four years.

In the instant matter, the appointing authority seeks an extension of the PM1256N eligible list because it contends that due to the overlap of the PM3588K and PM1256N lists, the eligibles on the latter list will not have been considered for a full three years should the list expire on October 3, 2015. However, the fact that the PM3588K and PM1256N eligible lists were both active from October 4, 2012 to December 16, 2012 does not diminish the duration of the PM1256N list in any way. As the PM1256N eligible list promulgated on October 4, 2012, its duration in fact will have been three years when it expires on October 3, 2015. Moreover, eligibles from the PM1256N list were certified (PL121544) on December 13, 2012, the only certification for the subject title since the promulgation of the PM1256N eligible list. Since the PM3588K list was still active as of the December 13, 2012 certification date and had an earlier promulgation date, the remaining individuals on the PM3588K list were placed ahead of the individuals from the PM1256N list on the certification pursuant to *N.J.A.C.* 4A:4-3.5(a)1. This rule provides, in pertinent part, that successive eligible lists for a given title resulting from successive promotional examinations may be consolidated by placing the first name on the later list after the last name of the prior list. Nevertheless, the eligibles from the PM1256N list whose names appeared on certification PL121544 were considered for appointment with the second ranked eligible from the PM1256N list receiving a regular appointment. Furthermore, it should be noted that individuals whose names merely appear on a list do not have a vested right to appointment. See *In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984), *Schroder v. Kiss*, 74 *N.J. Super.* 229 (App. Div. 1962). The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. See *Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990).

The appointing authority also expressed its concern that an active Fire Officer 3 eligible list should exist at all times. However, a new Fire Officer 3 promotional announcement (PM1698S) for Jersey City issued in December 2014, and 15 candidates were tested in April 2015. Agency Services indicates that the

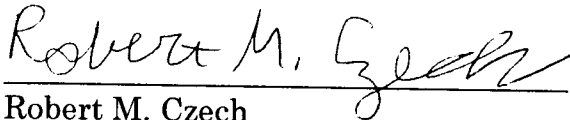
resultant eligible list from this new announcement should issue at approximately the same time that the PM1256N eligible list expires, thereby allaying the appointing authority's concern over the availability of a Fire Officer 3 eligible list. It should further be noted that there is no indication in the record that the appointing authority actually has genuine vacancies to fill. In this regard, it has been determined that a request for list extension beyond the expiration date should only be granted to fill current vacancies. *See In the Matter of William J. Brennan and Fire Lieutenant (PM1201T) and Fire Captain (PM1191T), Township of Teaneck (MSB, decided April 9, 2003); In the Matter of Police Lieutenant (PM1356W), City of Hoboken (Commissioner of Personnel, decided December 17, 2002).* This approach accommodates the policy of avoiding stale lists and the principle of merit and fitness. Regardless, the appointing authority may, if necessary to fill an actual vacancy, request a certification of the PM1256N eligible list prior to its October 3, 2015 expiration date. Accordingly, good cause has not been established to extend the Fire Officer 3 (PM1256N), Jersey City eligible list.

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 16TH DAY OF SEPTEMBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
Civil Service Commission
P.O. Box 312
Trenton, NJ 08625-0312

c. Robert Kakoleski
Kenneth Connolly

