

On appeal, the appellant asserts that he has been performing the duties of a Realty Specialist 2 for many years. He attaches prior performance evaluations to support his argument. Additionally, the appointing authority submits a letter supporting his appeal. Specifically, the letter states that it permanently appointed the appellant as a Realty Specialist 2, effective February 2017, after he successfully performed the duties of this title while serving provisionally after granting his request to have his title laterally transferred from Real Estate Appraiser to Realty Specialist 2. His lateral transfer was approved because his experience as a Real Estate Appraiser met the experience requirements for Realty Specialist 2. It presents that it requested that Agency Service announce a promotional exam for the subject title after it made two provisional appointments in unit scope T505. The appointing authority indicates that it analyzed unit scope T505 and finds that no other similarly situated personnel would be affected by the appellant's admittance to the examination. It contends, due to the unique requirements of the Realty Specialist title series and the number of eligible candidates already included in the announced title scope, that Civil Service rules did not allow the subject examination to be additionally announced to be open to individuals who met the open competitive requirements as of the June 21, 2017 closing date. As such, the appointing authority believed that its only option was to exclude the appellant from the examination even though he possessed over 11 years of applicable experience.

CONCLUSION

N.J.A.C. 4A:4-2.2.5(b) provides that, among other alternatives, a promotional examination in State service shall be open to permanent competitive division employees serving in the next lower or next two lower in-series titles or the next lower in-series title and **all other permanent competitive division employees who meet the complete open competitive requirements.**

In this matter, Agency Services correctly determined that the appellant did not meet the examination requirements as he lacked the required permanent service in a title to which the examination was open by the June 21, 2017 closing date. However, the appointing authority apparently mistakenly believed it could have only requested that the subject examination be announced to employees who had sufficient permanent service as a Realty Specialist 2, the next lower in-series title, by the closing date. Per the rule cited above, this is not the case. Instead, the appointing authority could have requested that the subject examination be announced open to all other permanent competitive division employees in unit scope T505 who met the complete open competitive requirements. Indeed, as the appellant meets the open competitive requirements and was provisionally appointed to the subject title, it is clear that the examination should have been announced as previously suggested. The Commission notes that the dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil

Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. *See Communications Workers of America v. New Jersey Department of Personnel*, 154 N.J. 121 (1998). Accordingly, the appellant should be admitted to the examination.

This determination is limited to the instant matter and does not provide precedent in any other matter.

ORDER

Therefore, it is ordered that the appeal be granted, and Mark Cucchiaro's application be processed for prospective employment opportunities only.

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 27th DAY OF MARCH, 2018



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