

*In the Matter of Phillip Beesley, et al.,  
Principal Forensic Scientist (PS8578P), Division of State Police  
DOP Docket No. 2000-2388  
(Merit System Board, decided March 27, 2001)*

Philip Beesley, George Chin, Joseph Dintino, Edward Gainsborg, Sharon Freck-Tootell, Roy Hellman, Mabel Hores, Thomas Lesniak, Mark Lowell, Jacki Mancilla, Cynthia McSweeney, Joseph Messana, Evelyn Moses, Alice Nahas, Songza Park, Joseph Pino, Patricia Prusak, Tracy Pursell, Desiree Reid, Michele Roberts, Nirmal Sawhney, Nancy Swec and Gail Tighe appeal their scores on the promotional examination for Principal Forensic Scientist (PS8578P), Division of State Police. These appeals have been consolidated due to common issues presented by the appellants.

The subject promotional examination had a closing date of May 21, 1999. The examination was open to employees in the competitive division who were serving in the Senior Forensic Scientist title and had an aggregate of one year of continuous permanent service as of the closing date in that title.

The subject promotional examination was processed as a “ranked unassembled” examination involving the evaluation of education and experience as set forth on the candidates’ examination applications. In this regard, the open competitive eligibility requirements for Principal Forensic Scientist are graduation from an accredited college or university with a Bachelor’s degree in Chemistry *or* in one of the biological, natural, or physical sciences which shall have included a minimum of 24 semester hour credits in chemistry and three years of experience in the making of varied chemical tests, examinations, and analyses in a modern, well- equipped analytical or forensic chemistry laboratory. A Master’s degree in any one of the above mentioned fields can be substituted for one year of experience and a Doctorate degree in any one of the above mentioned fields can be substituted for two years of experience.

It is noted that the scoring standard provided credit for up to 10 years of appropriate experience. The scoring criteria further provided that 2 points be awarded for a completed Master’s degree and 2 points for a completed Doctorate degree. Incomplete Master’s degrees were awarded credit on a scale of 1 point equaling 15 credits, up to a maximum of 25 credits for Master’s studies and 1 point equaling 15 credits, up to a maximum of 25 credits for Doctoral studies. No credit was awarded for a Bachelor’s degree in Chemistry or in one of the biological, natural or physical sciences. Credit is not given for possession of a Bachelor’s degree in this situation because the

title has a specific degree requirement and no experience substitution is allowed; to give credit would only inflate each candidate's score by the same amount. The scoring criteria also provided that full credit be awarded for applicable supervisory experience acquired within the 10 years immediately preceding the announced closing date and half credit be awarded for non-supervisory experience acquired within the same period. In this regard, it is noted in the Senior Forensic Scientist job specification that employees in this title *may* supervise Forensic Scientists and Laboratory Technicians.

It is noted that a list has been certified and *one conditional appointment* has been made.

Appellants Chin, Dintino, Gainsborg, Hellman, Hores, Moses, Nahas, Prusak, Purcell, Sawhney, Tighe and Freck-Tootell assert that scoring criteria for education and experience were not applied uniformly throughout the candidate population. They state that candidates filling out applications should not have to know the proper "buzz words" that the reviewer is basing the score on. They suggest that if a different reviewer evaluated these applications, the resultant employment list would be entirely different. Because of this, these appellants assert that the method of testing is subjective and inconsistent. Further, these appellants assert that one candidate's seniority was miscalculated and that another candidate received no points for experience. They also state that the Forensic Science field is constantly changing and that limiting the time frame in which experience is credited and not crediting certain training and educational programs devalues a candidate's worth. In this light, they suggest all education and experience be credited. In sum, the group asserts that the test score should be based on only education and experience related to Forensic Science; all years of seniority and experience; that possession of a Bachelor's degree should not be counted; that only related graduate degrees such as Forensics, Chemistry and Biology be counted; and that performance assessment review (PAR) credit should be averaged over several years, not just the last rating period.

Mr. Sawhney states that the test score was supposed to be based on education and experience. In regard to education, he possesses two Master's degrees, a Bachelor's degree and has attended advanced courses and seminars in the fields of drugs and toxicology. Mr. Sawhney emphasizes his 23 years of experience as a Forensic Scientist, stating that he supervised and trained Scientists, Senior Forensic Scientists and Principal Forensic Scientists. Mr. Sawhney states that he has more than two years of supervisory experience as a Medical Technologist. He also notes that he has the highest education, the most experience, that he trained many colleagues

and that he always received outstanding PAR's. Because of these factors, Mr. Sawhney feels he should have received a higher score.

Ms. Prusak asserts that individuals with a higher degree of education should be ranked higher than those individuals who have course work but have not completed an advanced degree. She also states that individuals with longer experience should be ranked higher than individuals with less experience.

Ms. Tighe questions why she was not given credit for her education and experience. She states that she possesses a Bachelor of Arts degree from The College of New Jersey (formally Trenton State College). Although her degree major is Art Education, Ms. Tighe states that she has earned a total of 49 credits in the Sciences, specifically, 29 in Chemistry, 16 in Biology and 4 in Physics from various colleges. She asserts that the Department of Personnel considers 24 completed credits in a field of study a major and, therefore, she should be considered to possess the specific degree. Ms. Tighe included copies of her transcripts as part of her appeal. Further, Ms. Tighe clarifies her experience. She states that she has 20 years experience in the Trace Evidence Unit and over the last 14 ½ years she filled in for the Supervisor when needed. Ms. Tighe also highlights the fact that she has attended training in supervision, professional development and holds a teaching certificate.

Ms. Freck-Tootell asserts that she should have received at least 5.00 for her seniority instead of 1.097. She also states that she was not given proper credit for her Bachelor's degree in Medical Technology or her 13 graduate credits. In regard to experience, Ms. Freck-Tootell feels that her 16 years as an Officer in the National Guard has provided her with relevant supervisory experience. Coupled with her 15 years of experience as a Senior Forensic Scientist, Ms. Freck-Tootell states she should receive the maximum credit for relevant experience. Further, she asserts that awarding credit for completion of the Certified Public Manager (CPM) program is unfair since only selected individuals are offered the opportunity to participate in the program and that her PAR evaluations have been outstanding and should be considered when evaluating her final average.

Mr. Lesniak appeals points given to other applicants for supervisory experience. He states that he has knowledge that supervisory duties listed by other applicants were not accurate. Mr. Lesniak also questions why an applicant's "total" experience is not considered and why training and special courses are not considered. He also inquires as to why his position as an adjunct professor of Forensic Science was not given credit for supervisory experience.

Ms. Mancilla states that she has knowledge that some candidates indicated supervisory experience that was not accurate. She also questions the use of PAR's in scoring since she feels PAR's are not scored equitably from laboratory to laboratory or within the same laboratory.

Mr. Mark appeals as an individual and a Shop Steward. He states that he ranked 15<sup>th</sup> on the 1993 examination and he ranked 16<sup>th</sup> on the examination under appeal. He questions why his current score is lower because he submitted the same information for both examinations. Mr. Mark also questions the change in candidate ranks from the 1993 list to the 1999 list. He contends that the candidates ranked higher on the 1993 list ranked lower on the 1999 list and that the lower ranked candidates on the 1993 list ranked higher on the 1999 list. Further, Mr. Mark asserts that selection for additional training courses is subjective and that credit should not be given for such courses since all unit members are not allowed to attend. Mr. Mark also suggests that some applicants only had a couple of days to fill out their applications while others were given over a week to fill out theirs.

Mr. Messina contends that he was not given credit for certain training courses he completed that were work related.

Ms. McSweeney asserts that she was not awarded credit for her postgraduate studies at the FBI Academy or credit for her Bachelor's degree. She also questions how supervisory experience was credited and states that she supervised other scientists but did not have PAR responsibilities. Further, she questions if she received supervisory credit and asks if an employee on a leave of absence at the time of filing for a promotional examination is eligible to apply.

Ms. Park feels that she should be given full credit for her experience since she took full responsibility for the unit, both before and after her supervisor retired. She states that her supervisor discussed with her other Senior Forensic Scientists' performance for their evaluations. Ms. Park also asserts that the awarding of credit for experience was inconsistent between reviewers. In particular, she states that some reviewers gave full credit for training while others limited credit for supervision to those who composed PAR's. Ms. Park states that she was not given credits for her incomplete Master's degree. She also questions why her PAR rating was 2 points when she has almost always received a PAR rating of 5.

Mr. Pino questions if he received credit for his three Master's level courses and he requests an interpretation of the markings on his application by the reviewer.

Ms. Reid argues that PAR's should not be used in scoring since they have some degree of subjectivity and that they are not equitably distributed within one laboratory as well as the laboratory system. She also states that other candidates indicated supervisory experience counter to civil service rules for claiming supervisory experience. Ms. Reid contends that she did not receive the proper credit for relevant training. Further, she states that she did receive other training that she did not know she could indicate on a separate piece of paper for extra credit. Mr. Reid also feels that she should not be scored on how she listed her job description as civil service rules define the responsibilities. She states that peers with the same qualifications received a higher score than she did, the only difference being the wording of their duties. Ms. Reid also suggests that the examination should be conducted by an outside source, such as the American Board of Criminalistics. She feels that an independent agency could formulate an examination that is unbiased and covers a vast array of material from all disciplines in forensics.

Ms. Roberts asserts that she has knowledge that supervisory duties listed by other applicants were not accurate. She states that all Senior Forensic Scientists fill in intermittently in the absence of supervisors but they do not receive payment for the out-of-title work or compose PAR's. Additionally, Ms. Roberts suggests that applicants be given credit for their full service time, not just a 10 year window. She feels that this would allow for greater distinction between candidates who essentially have the same qualifications by giving credit for all relevant experience. Ms. Roberts also requests clarification of the points she received for experience and why her position as an adjunct professor is not considered supervisory experience.

Ms. Swec questions her score since she has over 19 years of experience. She reiterates her qualifications, highlighting her technical and managerial experience.

Mr. Beesley asserts that two courses he listed under "Schools and Training" were in fact graduate courses and should be credited as such. In support of this, Mr. Beesley supplies transcripts from the University of Virginia. He also questions his credit for experience, stating he should have received one point for every year up to 10 years. Mr. Beesley also states that other applicants reported supervisory experience that was not accurate. He states that all Senior Forensic Scientist's supervise in the absence of the supervisor but no Senior Forensic Scientist composes PAR's. He requests the examination be reissued if applicants are allowed to indicate intermittent supervisory duties. Mr. Beesley also suggests that experience credit should not be limited to the 10 year window as this would help to break scoring ties.

In response to Mr. Lesniak's, Ms. Mancilla's, Ms. Reid's, Ms. Roberts' and Mr. Beesley's suggestion that other unnamed applicants may have exaggerated their supervisory experience, this type of allegation, without specificity, is inadequate and fails to provide a basis on which to pursue an investigation. Nevertheless, all applications and documentation associated with the administration of this promotional examination have been reviewed in conjunction with this appeal.

Regarding appellants Beesley's, Chin's, Dintino's, Gainsborg's, Hellman's, Hores', Lesniak's, Moses', Nahas', Prusak's, Purcell's, Roberts', Sawhney's, Tighe's, and Freck-Tootell's assertion that experience greater than ten years should receive scoring credit, it is noted that they all have extensive experience. However, it is long-standing policy that in the course of the administration of an unassembled examination, only the ten most recent years of a candidate's experience are evaluated for scoring purposes. *N.J.S.A.* 11A:4-1 provides considerable discretion to the Department of Personnel in the development and scoring of examinations for positions in the career service. The adoption of the long-standing policy of evaluating a candidate's most recent ten years of experience in the course of the administration of unassembled or "Education and Experience" examinations is an example of this discretionary authority. In adopting this policy, it was determined that there are so many changes in the methods and/or equipment in performing tasks in every area of employment that only experience gained within the ten year time period immediately prior to the closing date of the examination would be granted additional points above the passing point of 70. In the traditional method of scoring unassembled examinations, all candidates who meet the basic eligibility requirements are awarded the passing grade of 70, regardless of when that experience was gained. The Merit System Board and its predecessor, the Civil Service Commission, have upheld the appropriateness of the ten year rule. *In The Matter of Peter Smith*, (Civil Service Commission, decided April 23, 1984), it was determined that "there are sound reasons for limiting the evaluation to experience gained within the past ten years since rapid changes in certain fields make recent experience a more valid indicator of current knowledge than experience gained many years ago". The Commission further concluded that "the utilization of the ten year cut-off in grade the E&E examination ... is neither arbitrary nor discriminatory". See also, *In the Matter of John Gerolstein* (Commissioner of Personnel, decided October 1996). The unassembled examination process takes into account the quality and quantity of experience an applicant possesses, as well as education, seniority and PAR ratings. Thus, the duration of an applicant's tenure alone does not determine his or her ranking on an eligible list.

In reply to appellants Chin's, Dintino's, Gainsborg's, Hellman's, Hores', Lesniak's, Moses', Nahas', Prusak's, Purcell's, Reid's, Sawheny's, Tighe's and Freck-Tootell's assertion that certain training, special courses and professional education programs should receive credit, it is noted that the scoring criteria did not provide that credit would be awarded for training, special courses or professional development as they were not determined to be necessary or valuable for the title under test. Ms. Reid's specific assertion that she did not receive credit for relevant training is unsupported. A review of her application indicates that in Section 15, Other Schools or Training Courses, Ms. Reid indicated a training course in Optical Crystallagraphy and a Forensic Chemist Seminar. Because these are professional training courses, not graduate courses, the scoring criteria did not provide for the awarding of credit. Regarding Ms. Reid's assertion that she received training that she did not know she could indicate on a separate piece of paper, the promotional announcement clearly advised all candidates that if an unassembled examination was held, failure to complete the application properly could lower the score or cause a candidate to fail. It is also noted that Ms. Reid checked "NO" next to the question, "Did you include any attachments to this application?"

In reply to Mr. Mark's statement that credit should not be given for additional training courses since all unit members are not selected to attend, as stated above, the scoring criteria did not award credit for additional training other than relevant graduate course work. In response to Ms. Freck-Tootell that awarding credit for the Certified Public Manger (CPM) program is unfair since only selected individuals are offered the opportunity to participate in the program, it is noted that the scoring criteria for the examination under appeal did not award credit for this program as it was not determined to be either necessary or an asset for the subject title.

In response to appellants Chin's, Dintino's, Gainsborg's, Hellman's, Hores', Moses', Nahas', Prusak's, Purcell's, Sawhney, Tighe's and Freck-Tootell's argument that the test score should be based only on education and experience related to Forensic Science, the scoring criteria awarded credit only for graduate level education in chemistry, biological, natural or physical sciences and experience, either full or half, for work involving the making of varied chemical tests, examination, and analysis in a modern, well-equipped analytical or forensic chemistry laboratory. This criterion is clearly related to the field of Forensic Science and appellants' claim that the focus of creditable experience should be further narrowed is unsupported. These appellants also assert that a Bachelor's degree should not be counted for scoring purposes and that only related graduate degrees be awarded credit. As indicated earlier, the scoring criteria provided that no credit be awarded for possession of a Bachelor's degree in chemistry, biological, natural or physical sciences

because this announcement contained a specific degree requirement with no experience substitution allowed. Thus, to award points for possession of the Bachelor's degree would only inflate each applicant's score by the same amount. In regard to graduate studies, the scoring criteria provided for up to two points for a completed Master's degree in the specified fields of study and pro-rated points for courses completed in pursuit of a relevant Master's degree. Regarding averaging PAR credit over several years, *N.J.A.C. 4A:4-2.15(c)1*, provides that candidates for State service promotional examinations shall receive credit for the *final* Performance Assessment Review (PAR) rating on file in the candidate's personnel office as of the announced closing date for the rating period immediately preceding the announced closing date.

In reply to Mr. Sawhney's individual appeal, the scoring criteria did not provide for additional credit for more than one Master's degree. Mr. Sawhney was properly credited two points for his graduate level studies. Regarding his 23 years of experience, as noted above, it is long standing policy that in the course of the administration of an unassembled examination, only the ten most recent years of a candidate's experience are evaluated for scoring. Further, Mr. Sawhney received five points for seniority, the maximum amount he could have earned. Regarding PAR credit, appellant's record indicates he received three points, which reflects performance significantly above standards. With regard to his claim that he trained and supervised Forensic Scientists, Senior Scientists and three Principal Forensic Scientists, in the supervision section of the application, Mr. Sawhney indicated that he trained three Principal Scientists. However, an essential component of supervisory duties is responsibility for composing and administering formal PAR's for subordinates. Training and ensuring that assigned tasks are completed efficiently would only be considered a part of supervisory functions and more consistent with that of a lead worker. Mr. Sawhney failed to indicate that he performed PAR administration. He was not awarded credit for his supervisory experience as a Medical Technologist because it was gained more than ten years before the closing date. Therefore, he was correctly awarded half credit for his experience as Senior Forensic Scientist.

In reply to Ms. Prusak, the scoring criteria provided that individuals with a completed Master's degree in a relevant field receive 2 points and an incomplete Master's degree in a relevant field be awarded credit on a scale of 1 point equals 15 credits, up to a maximum of 25 credits. Thus, a candidate will receive more credit for completion of a relevant Master's degree than for completing courses but not having attained the relevant Master's degree. However, in addition to educational credentials, the examination process takes into account seniority, the quality and quantity of work experience as



well as PAR ratings. Therefore, depending on the other variables, candidates who did not complete a Master's degree could rank higher than those who completed a Master's degree.

In response to Ms. Tighe's question as to why she was not given credit for her Bachelor of Arts degree in Art Education, the open competitive educational requirement was a Bachelor's degree in chemistry *or* one of the biological, natural, or physical sciences which shall have included a minimum of 24 semester hour credits of chemistry. Ms. Tighe indicated on her application that she studied Biology at Montclair State College before transferring to The College of New Jersey (formally Trenton State College) to study and subsequently earn a Bachelor's degree in Art Education. Ms. Tighe did not indicate on her original application that she completed any other science or chemistry courses nor did she supply a transcript of relevant courses she completed. As such, Ms. Tighe was determined to be eligible for the promotional examination and awarded a passing score of 70.00 because of her permanent status in the in-line title of Senior Forensic Scientist but was not awarded credit for her experience because she did not meet the educational open competitive requirements.

As to Ms. Tighe's contention that her undergraduate degree satisfies the education requirement, while 24 semester credit hours in a specific discipline constitutes a major course of study pursuant to Department of Personnel policy, these semester credit hours must have been attained while in pursuit of a degree in the required discipline. In the present matter, the appellant's semester credit hours totaled 16 credits in biology and 13 credits in chemistry while she pursued a Biology degree at Montclair State University. Her transcripts from Trenton State College, where she evidently changed majors, indicate no science based courses while pursuing her Bachelor's degree in Art Education. Her chemistry credits at Rider College and Mercer County College were earned in a non-matriculated status after she was awarded her Bachelor's degree in 1975. In the present matter, the appellant's relevant semester credit hours in the sciences were attained while in pursuit of a Bachelor's degree in Art Education and, thus, are not applicable.

Additionally, Ms. Tighe suggests on appeal that she assumes the supervisory responsibility in the supervisor's absence and has received supervisory training. Performing supervisory duties in the supervisor's absence, as stated above, is not considered creditable supervisory experience.

Ms. Freck-Tootell argues that her seniority score should be 5.000 rather than 1.097. Thus, appellant believes her seniority was not calculated correctly. In reply, seniority is based on the time from regular appointment

date (to the eligible title) to the closing date of the announcement minus the time spent in layoffs, suspensions and leaves of absence without pay. The closing date for the subject examination was May 21, 1999; this is the date used to calculate seniority. Ms. Freck-Tootell's record reveals that she was regularly appointed to the title of Senior Forensic Scientist on November 10, 1984. A review of this issue indicates that Ms. Freck-Tootell's seniority was incorrectly calculated and should in fact be 5.000 instead of 1.097.

Further, Ms. Freck-Tootell asserts that she did not receive points for her Bachelor's degree in Medical Technology and for 13 graduate credits. As stated above, since the open competitive requirements indicate a specific degree and no experience substitution was allowed, no credit was awarded for possession of the relevant Bachelor's degree; to do so would only inflate each applicant's score by that same amount. Regarding credit for her graduate studies, credit is only awarded for courses completed in pursuit of a relevant Master's degree. Ms. Freck-Tootell was properly credited with four graduate credits but cannot be credited for the nine additional credits earned at the FBI Academy.

Additionally, Ms. Freck-Tootell states that her 16 years of service in the National Guard as an officer has provided her with relevant supervisory experience and therefore she should receive maximum credit for relevant supervisory experience. Ms. Freck-Tootell indicated on her application that is assigned as the Plans and Operations Officer of the 42<sup>nd</sup> Infantry Division Support Command and apparently supervises the Intelligence and Plans sections. She also indicated that she has been assigned as the Medical Operations Officer, Personnel Management Officer, S1 & Adjutant of a Maintenance Battalion, an HHD Commander of a Supply and Service Battalion and as Executive Officer of a Supply Company. Although the appellant undoubtedly possesses supervisory experience in these capacities, the scoring criteria only provided that full credit be awarded for supervisory experience in the making of varied chemical tests, examinations, and analysis in a modern, well-equipped analytical or forensic chemistry laboratory. The appellant's duties in the National Guard do not indicate experience of this nature and therefore cannot be awarded credit. Regarding PAR credit, the appellant's record reveals that she received three points, which is the maximum possible points any candidate could receive and reflects performance significantly above standards.

Mr. Lesniak and Ms. Roberts question why they did not receive supervisory credit for their experience as Adjunct Instructors of a Forensic Science Class at Ocean County College. Supervisory functions include, among other duties, ensuring that tasks assigned to subordinates are efficiently accomplished, training subordinates and making employee performance

evaluations. A tutelary relationship between instructor and students is not considered equivalent to either hands-on experience or that of a supervisor who, through the above noted functions, ensures completion of assigned tasks in support of delivering services or goods in a business environment. Therefore, scoring credit cannot be awarded for this teaching experience.

Appellants Mancilla and Reid argue that PAR's should not be used in scoring since they have some degree of subjectivity and are not scored equitably between laboratories or within the same laboratory. As noted previously, in accordance with the controlling provision, *N.J.A.C. 4A:4-2.15(c)1*, it has been long standing policy to assign credit for PAR ratings to candidates for State service promotional examinations.

In reply to Mr. Mark, each announcement is a separate entity and the requirements for an announcement are determined by the circumstances at the time an examination is requested. In particular, the promotional examination for Principal Forensic Scientist (PS7076P) closing on May 14, 1992 had 53 applicants, 24 failures and 10 no-shows which resulted in an eligible list of 19 candidates. On the other hand, the examination under appeal had 48 applicants and an eligible list of 48 candidates. Moreover, the 1992 examination would consider relevant experience after June 1982 whereas the 1999 examination would consider experience after June 1989. Thus, the requirements for each specific examination, the size of the applicant pool, the quality of experience, varying PAR and seniority and changes in educational background all contribute to the fluctuations in score and rank between examinations.

In response to Mr. Mark's and Mr. Beesley's concern that some applicants were afforded more notice about the examination than other applicants, it is noted that the subject promotional announcement was issued May 1, 1999 with a closing date of May 21, 1999. *N.J.A.C. 4A:4-2.1(b)* provides that notices of promotional examinations and applications shall be provided to eligible employees by the Department of Personnel or through the appointing authorities. The appointing authority shall conspicuously post notices at all geographic locations within the unit scope to which the examination is open. No evidence has been submitted to suggest that the appointing authority did not provide proper notice.

In response to Ms. McSweeney, the scoring criteria did not award credit for possession of the specified Bachelor's degree. In regard to her FBI Academy course, this course would be considered a training course not eligible for additional credit. Supervisory credit is awarded to candidates with responsibility for composing and administering subordinates PAR's. Based on her admission that she does not administer PAR's, and a review of

her application, Ms. McSweeney was erroneously awarded full credit for experience described as “supervising and training other scientists”. Regarding Ms. McSweeney’s question regarding eligibility, *N.J.A.C. 4A:6-1.1(d)* provides that a leave of absence shall not disqualify an applicant for a promotional examination.

In reply to Mr. Messina, it is noted that he included six work-related training courses on his original application. However, the scoring criteria did not provide that credit would be awarded for these training and professional development courses. Therefore, he is not entitled to any additional credit.

Ms. Park asserts that she should receive full credit for her experience since she took full responsibility for her unit both before and after her supervisor retired. On her application, Ms. Park indicated in the supervision section that she “trained 3” and “supervised 6 frequently”. However, she did not indicate a time frame when she performed these duties and, as presented, this did not constitute supervision on a day-to-day basis as required. Thus, her response was too ambiguous and therefore could not be evaluated and credited. As stated earlier, the essential component of supervision is the responsibility for administration of a formal performance assessment review (PAR) evaluation for subordinate staff. Although her supervisor may have discussed other Senior Forensic Scientist’s performance with her, she does not indicate that she was responsible for the administration of PAR’s to subordinate staff.

Additionally, Ms. Park states that she did not receive credit for her incomplete Master’s degree and questions why she received 2 points for PAR credit. In the education section of her application, Ms. Park indicated that she received 12 credits from Webster College in Chemistry and 7 credits from Washington University in Organic & Physical Chemistry. However, she did not indicate that these were undergraduate or graduate level credits in pursuit of a relevant Master’s degree and therefore could not be evaluated for credit. In this connection, it is important to note that the promotional announcement clearly and unequivocally advised all candidates that if an unassembled examination was held, failure to complete the application properly could lower the score or cause a candidate to fail. Regarding PAR credit, as stated previously, *N.J.A.C. 4A:4-2.15(c)1* provides that candidates for State promotional examinations shall receive credit for the final Performance Assessment Review rating on file in the candidates’ personnel office as of the announced closing date for the rating period immediately preceding the announced closing date. Ms. Park’s score of 2 reflects that she “Exceeds Standards”.

A review of Mr. Pino's application reveals that he was properly credited for three graduate level credits that he completed at Rutgers-Camden Graduate School in Molecular Genetics. His application reveals no additional graduate credits in pursuit of a relevant Master's degree. In regard to the markings on his application, the mark "10,0" in letter A of his employment record means that he was credited with 10 years and no months of applicable experience between June 1989 and May 1999. Since he indicated that he supervised on an "ad hoc" basis, Mr. Pino was credited with half credit for ten years of experience.

In reply to Ms. Reid, *N.J.A.C.* 4A:4-2.2 specifies that the Department of Personnel has discretion in selecting the mode of examination. In this light, it is noted that the Division of Selection Services uses a number of criteria to determine test modes and it concluded that an unassembled examination was the best test mode for this examination.

In response to Ms. Roberts' request, she was properly credited with half credit for ten years of experience. In State promotional examinations, in order to allow for PAR and seniority points, a candidate's total credits or points are multiplied by a conversion factor of .666. This product is then added to the base eligibility score of 70.000.

In reply to Ms. Swec, a review of her record indicates that she was not credited with supervisory experience. While her application indicates that she reported supervisory responsibilities, including PAR administration, between November 1988 and April 1989, this supervisory experience cannot be counted because it was performed more than ten years before the closing date.

In response to Mr. Beesley, who includes supplements to the information on his job application, it is noted that *N.J.A.C.* 4A:4-2.1(f) specifically provides that an examination application may only be amended prior to the filing date. Thus, new information submitted after the closing date cannot be considered in the adjudication of this appeal. To do otherwise would be tantamount to alteration of an answer sheet following administration of an assembled examination. As stated earlier, the promotional announcement warned applicants that if an unassembled examination was held, failure to complete the application properly could lower the score or cause a candidate to fail. A review of Mr. Beesley's record indicates that he was properly credited for his ten years of experience.

Appellants Chin, Dintino, Gainsborg, Hellman, Hores, Moses, Nahas, Park, Prusak, Purcell, Reid, Sawhney, Tighe and Freck-Tootell assert that the scoring criteria was not applied uniformly throughout the candidate

population. Specifically, they suggest that candidates who utilized the proper “buzz words” had a better opportunity to maximize their score. Further, they suggest that if a different reviewer evaluated these applications, the resultant employment list would be entirely different.

In reply to these appellants, as stated earlier, the scoring criteria awarded credit for experience in the making of varied chemical tests, examinations, and analyses in a modern, well-equipped analytical or forensic chemistry laboratory. The only difference between who would be awarded full credit and who be awarded half credit was supervisory experience. Thus, candidates who indicated appropriate supervisory experience were awarded full credit during the relevant time frame. In this regard, it is noted that all the 48 candidates, other than Ms. Tighe, received some combination of full or half credit. As stated earlier, the essential component of supervisory duties is responsibility for composing and administering formal PAR's for subordinate staff. Training subordinates and ensuring assigned tasks are accomplished efficiently, without PAR responsibility, is more consistent with the duties of a lead worker. A review of the record indicates that appellants Beesley, Dintino, Freck-Tootell, Hellman, Hores, Lesniak, Mark, Mancilla, Messana, Moses, Nahas, Park, Pino, Prusak, Purcell, Reid, Roberts, Sawhney, Swec and Tighe received the appropriate credit for their experience. However, the record indicates that appellants Chin and McSweeney erroneously received full credit for supervision in the absence of the regular supervisor and/or for training individuals.

Additionally, in conjunction with these scoring appeals, the scoring of all examination applications has been reviewed. Based on this review, as with Mr. Chin and Ms. McSweeney, Anthony Pankiewicz, Maureen Low-Beer, Diane Miller, Susan Chew and Michael Koval erroneously received supervisory credit. Specifically, Mr. Pankiewicz stated that he assumed the full responsibility of the confirmation laboratory in the absence of the supervisor and supervised and trained laboratory personnel. In regard to Ms. Low-Beer, no supervisory duties were presented and the appointing authority has confirmed that she does not have the responsibility to administer performance assessment reviews (PAR's). Ms. Miller stated that she “also was involved in the training and supervision of several employees.” For the period of May 1993 to June 1997, Ms. Chew indicated that she “supervised interns.” Mr. Koval stated that he “temporarily substitute[s] and supervise[s] Units in absence of regular Unit supervisor” and “train[s] and supervise[s] scientists.” These are considered duties of a lead worker and should not be awarded full credit.

A thorough review of all material presented by an independent appeals examiner indicates that the scoring criteria were not uniformly applied and

the examination applications of appellant Chin and McSweeney as well as applicants Pankiewicz, Low-Ber, Miller, Chew and Koval were incorrectly scored. Further, Ms. Freck-Tootell is to be credited with 5.00 seniority points.

## **ORDER**

Therefore, while it is ordered that these appeals be denied, the above noted applications should be re-scored consistent with this decision and the eligible list amended accordingly.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.