

was a Supervisor. She was credited with four years, ten months in her provisional position, and thus, per the substitution clause for education, she was found to be lacking four years, two months of applicable experience.

On appeal, the appellant argues that she accrued applicable experience in the titles Supervising Public Safety Telecommunicator and Senior Public Safety Telecommunicator, and she provides an expanded list of duties for these, and her provisional, positions.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date.

N.J.A.C. 4A:4-1.5(a) states that a provisional appointment may be made only in the competitive division of the career service when all of the following conditions are met:

1. There is no complete list of eligibles, and no one remaining on an incomplete list will accept provisional appointment;
2. The appointing authority certifies that the appointee meets the minimum qualifications for the title at the time of the appointment; and
3. The appointing authority certifies that failure to make the provisional appointment will seriously impair its work.

In order to ensure that the work of an appointing authority will not be adversely impacted by the absence of a list of interested eligibles for a specific position, *N.J.A.C.* 4A:4-1.5(a) provides for provisional appointments until a competitive examination and employment roster can be promulgated. This approach balances both the immediate needs of an appointing authority to staff critical positions with the underlying purpose of the Civil Service system to ensure that permanent appointments are made on the basis of merit and fitness. Acting within the parameters of the Civil Service law and rules, it is the appointing authority's function to determine how to organize its functions and determine its staffing needs. Subsequently, this agency reviews the appointing authority's actions to ensure that Civil Service rules have been followed and to advise appointing authorities to take corrective measures when they have not followed the rules.

Against this setting, the appellant's application history was reviewed as she has been a provisional employee for over four years as of the closing date. The appellant had filed for a previous examination for Training Officer (PC0629S), Ocean County and was found to be ineligible. For that examination, which had a closing

date of May 21, 2014, it was found that the appellant's experience in her prior-held titles did not have the announced experience requirement as the primary focus. She appealed that determination and agency staff responded that, other than her provisional Training Officer position, none of her other positions had, as the primary focus, supervisory experience in work involving the determination of training needs, development of training plans and materials, and the conduct of orientation, in-service, refresher, and other types of training courses. It was also indicated that the information supplied on appeal did not indicate that the required experience was the primary focus. For reasons unknown, an examination for this title was not announced again until 2018 even though the appellant remained in a provisional position.

For this examination, the appellant added an additional training duty on the current application to the description of duties for Supervising Public Safety Telecommunicator. Then on appeal, she adds many more details for this title and several more for Senior Public Safety Telecommunicator. In this respect, the appellant's description of duties gets more tailored to the examination requirements each time she responds to a communication that experience in these positions is not applicable.

When an applicant indicates extensive experience in titles established under the State Classification Plan, it is appropriate to utilize the job specifications to determine the primary focus of the duties of incumbents serving in career service titles. To that end, Senior Public Safety Telecommunicator is not a supervisory title, and by definition, any experience in this title is not supervisory experience. Supervising Public Safety Telecommunicator has, as the primary focus, supervising and working with a group of employees engaged in receiving and responding to telephone or other electronic requests for emergency assistance including law enforcement, fire, medical, or other emergency services, and/or supervises employees involved in dispatching appropriate units to response sites. That the appellant trained employees to do their work is a supervisory duty, and does not establish that training was the primary function of the position. Particularly in light of the fact that the appellant's first description of duties, as listed on her application for (PC0629S), has in-title duties as the primary function. Each position can have only one primary focus, and the duties performed most of the time and the importance of those duties, or the preponderance of the duties, identify the primary focus of the position. The revised duties have tailored her positions to look like training work, which is clearly not the primary focus. These positions are not applicable and the appellant lacks four years, two months of required experience.

Next, the requirements of *N.J.S.A.* 11A:4-13(b) allow for an appointing authority to certify that an appointee meets the minimum qualifications for the title at the time of appointment, but the fact that the appointing authority erroneously determined that a provisional appointee satisfies the minimum qualifications for the

title prior to an actual eligibility determination by this agency, does not automatically establish a presumption of eligibility when the examination is announced. *See In the Matter of Cynthia Bucchi, Maria D'Angelo, Rosalind R. James, Carla M. Lewis, and Rhonda McLaren, Management Assistant (PS5831F), Department of Education, Docket No. A-1266-04T2 (App. Div. February 27, 2006).* Since the appellant does not meet the minimum qualifications for the title, contrary to *N.J.A.C. 4A:4-1.5(a)2*, she should be returned to her regular prior-held title immediately upon receipt of this decision, and the duties of Supervising Public Safety Telecommunicator be assigned.

An independent review of all material presented indicates that the decision of Agency Services that the appellant did not meet the announced requirements for eligibility by the closing date is amply supported by the record. The appellant provides no basis to disturb this decision. Thus, the appellant has failed to support her burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal 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 23rd DAY OF OCTOBER, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

c: Nina Sonnenfeld
Michael Mastronardy
Kelly Glenn
Records Center