



STATE OF NEW JERSEY

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

In the Matter of William Apsley, Fire
Instructor (C0205A), Hunterdon
County

CSC Docket No. 2020-1908

Request for Reconsideration

ISSUED: MAY 22, 2020

Hunterdon County, on behalf of William Apsley, requests reconsideration of the decision rendered on December 18, 2019, which upheld the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirements for the open competitive examination for Fire Instructor (C0205A), Hunterdon County.

By way of background, the appellant was found ineligible for the subject examination as he lacked two years and six months of the required experience. The appellant argued that he had 13 years of experience fighting fires and that his possession of the Fire Service Instructor Level 1 certification demonstrated that he satisfied the three-year experience requirement contained in the subject announcement. In denying his appeal, the Civil Service Commission (Commission) found that the only appropriate experience submitted on the appellant’s original application was his part-time experience in the provisional title under test as the announcement required both possession of the certification *and* three years of experience.

On reconsideration, the appointing authority maintains that three years of the required experience is required by the Department of Community Affairs as part of its requirements to apply for a Fire Instructor Level 1 certification. Additionally, the certification requires completion of an instructional program within three years prior to, or at the time of, application and completion of a skills examination. Therefore, possession of the Fire Instructor 1 certification more than satisfied the experience requirements outlined in the job specification.

It is noted for the record that *P.L.* 1995, c. 266 was approved on November 15, 1995 establishing the certification requirement from the Department of Community Affairs for, among other things, persons providing training in a course for the fire service. Significantly, **prior to the enactment** of *P.L.* 1995, c. 266, the job specification for Fire Instructor only required an individual to possess three years of experience as a paid or volunteer fire fighter and/or instructor in the use of various fire fighting techniques and procedures in the course of extinguishing fires in a paid or volunteer capacity. Accordingly, after the enacted of *P.L.* 1995, c. 266, the job specifications for the Fire Instructor title series were revised to include the appropriate level of certification for the corresponding level in the title series. Further, the job specifications initially only required **appointees** to obtain the certification. Possession of the certification as a requirement to establish eligibility was not included in the job specification until January 2001.

It is further noted that the list was certified on August 22, 2019 (OL191006) and contained the names of all 18 eligibles. In disposing of the certification, the appointing authority made 12 permanent appointments, removed 5 eligibles from the list, and retained the name of one eligible who indicated interest in future certifications. As such, the eligible list is now incomplete.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

N.J.A.C. 4A:4-2.3(b) provides that applicants shall meet all requirements specified in the examination announcement by the announced closing date. *N.J.A.C.* 4A:4-2.1(f) provides that an application may only be amended prior to the announced closing date. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

In the instant matter, reconsideration of the prior decision is warranted. Essentially, the petitioner maintains that since the Fire Instructor Level 1 certification requires three years of experience as a New Jersey Certified Firefighter, individuals who possess that level of certification meet the experience requirement for Fire Instructor. As previously noted, prior to the enactment of *P.L.* 1995, c. 266, eligibility for the subject title could be established by possession of three years of experience as a paid or volunteer fire fighter. After its enactment, the job specification was amended first to state that appointees were required to possess the certification. Subsequently, the job specification was amended to include possession

of the certification as a requirement to establish examination eligibility. Significantly, there is nothing in the enabling legislation, regulatory history, or title history suggesting that the intent of establishing any level of the Fire Instructor Certification was to ensure that individuals who serve in the capacity of a Fire Instructor needed six, instead of three years of experience as a New Jersey Certified Firefighter 1. Moreover, even if the petitioner included and pro-rated his experience as a member of a volunteer Firefighter since 2003 on his original application, which he did not, it is likely that it would have confirmed that he possessed three years of experience as a volunteer Firefighter – a fact that was already established by his possession of the Fire Instructor 1 Certification which he did include with his original application. Regardless, as noted earlier, the subject list is now incomplete, as such, good cause is established to accept the information he provided in his prior appeal regarding his volunteer Firefighter experience since 2003 and admit him to the subject examination.

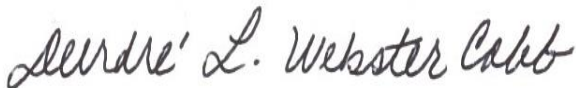
Based on the facts of this case, Agency Services should review the experience requirements in the Fire Instructor title series and make any modifications as it deems necessary.

ORDER

Therefore, it is ordered that this request for reconsideration be granted and that the petitioner'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
20TH DAY OF MAY, 2020



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