



STATE OF NEW JERSEY

In the Matters of Deiruska Corrales,
et al., Department of Children and
Families

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

CSC Docket Nos. 2020-1967,
et al.

Administrative Appeals

ISSUED: APRIL 12, 2021 (JET)

The Department of Children and Families (DCF) requests relaxation of *N.J.A.C.* 4A:4-5.2(a) in order to accept the completion of the working test periods of Deiruska Corrales, Cullen Huczko, Mindy Miller, Robin Nugent, Jacqueline Poz, Ismeta Saintclair, and Erin Wyckoff as Paralegal Technician Assistants. These appeals have been consolidated based upon common issues presented.

As background, personnel records reflect that Corrales, Miller, Nugent, Poz, Saintclair, and Wyckoff were appointed as Paralegal Technician Assistants on November 26, 2018, and Cullen was appointed as a Paralegal Technician Assistant on December 10, 2018.¹ Based on the above, Corrales, Miller, Nugent, Poz, Saintclair, and Wyckoff were scheduled to complete their Working Test Period (WTP)s for the Paralegal Technician Assistant title on March 26, 2019, and Huczko was scheduled to complete the WTP for the Paralegal Technician Assistant title on April 10, 2019.

Prior to completing their WTPs, on January 25, 2019, they submitted a classification request to this agency, indicating that they were performing duties consistent with the title of Investigator.² In its July 26, 2019 classification

¹ Personnel records reflect that Corrales was appointed as a provisional Paralegal Technician Assistant on April 17, 2017; Miller was appointed as a provisional Paralegal Technician Assistant on February 20, 2018; Nugent was appointed as a provisional Paralegal Technician Assistant on March 19, 2018; Poz was appointed as a provisional Paralegal Technician Assistant on December 11, 2017; and Saintclair was appointed as a provisional Paralegal Technician Assistant on November 28, 2016.

² The appointing authority was in support that the incumbents were performing Investigator duties.

determinations, the Division of Agency Services (Agency Services) determined that the proper classification of the incumbents' positions was Investigator 3, with an effective date of February 16, 2019.³ Records reflect that the incumbents were provisionally appointed to Investigator 3 pending a promotional examination (PAP), effective February 16, 2019.

By way of a September 10, 2019 decision, the Civil Service Commission (Commission) reallocated the Paralegal Technician Assistant title from the competitive division to the non-competitive division of the career service. *See In the Matter of Reallocation of Paralegal Technician Assistant from the Competitive to the Non-Competitive Division of the Career Service* (CSC, decided September 10, 2019). On November 26, 2019, Agency Services notified the appointing authority that, based on the September 14, 2019 title reallocation to the non-competitive division and the February 16, 2019 effective date of the reclassifications, and pursuant to *N.J.A.C. 4A:4-5.1(c)*, the appellants did not complete their WTPs while serving in the Paralegal Technician Assistant title.⁴ On June 20, 2020, this agency renumbered the Investigator title series, and as such, records reflect that the incumbents' appointments were changed from Investigator 3 to Investigator 1.

In its request, the appointing authority requests the Commission relax the pertinent rules and accept the incumbents' out-of-title work performed while serving as Paralegal Technician Assistants so that they will be considered to have completed their WTPs. The appointing authority asserts that relaxing the rules for such purposes will allow the incumbents to be determined eligible for the future promotional examination for Investigator 1. Moreover, the appointing authority asserts that it was in support that the incumbents were performing Investigator duties, and the operational needs of the unit necessitated that they perform such duties.

CONCLUSION

N.J.A.C. 4A:4-5.1(a) provides that the working test period is part of the examination process designed to permit an appointing authority to determine whether an employee can satisfactorily perform the duties of the title. *N.J.A.C.*

³ Agency Services determined the effective date based on the January 25, 2019 date that it received the classification evaluation requests. It is noted that January 25, 2019 date was prior to when the incumbents were scheduled to complete their WTPs for Paralegal Technician Assistant.

⁴ Agency Services also explained that, since the duties the incumbents performed while serving in the Paralegal Technician Assistant title were considered out-of-title work, such out-of-title work could neither be accepted to complete the WTPs, nor could it be accepted to qualify them for the Investigator 3 promotional examination. Agency Services explained that the WTPs did not commence until the September 14, 2019 date that the Paralegal Technician Assistant title was reallocated to the non-competitive division. Agency Services also explained that, pursuant to *N.J.A.C. 4A:3:3.9(e)3*, the appointments should have been recorded as provisional appointment pending open competitive examination procedures (PAOC).

4A:4-5.1(b) provides that all regular appointments to a title in the career service shall be subject to a working test period. *N.J.A.C.* 4A:4-5.2(a) provides that the working test period shall begin on the date of regular appointment. *N.J.A.C.* 4A:4-5.1(c) provides that during a working test period, an employee shall perform the duties of the title for which the appointment was made. *N.J.A.C.* 4A:4-5.1(d) provides that an employee who is serving a working test period shall not be eligible for a promotional examination from that title. *N.J.A.C.* 4A:4-5.2(a) provides that the working test period shall not include any time served by an employee under provisional, temporary, interim or emergency appointment. *N.J.A.C.* 4A:4-5.2(b)2 provides that the length of the working test period in State service shall be a period of four months of active service.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

As noted above, the incumbents were appointed as Paralegal Technician Assistants on November 26, 2018 and on December 10, 2018. However, the record reflects that they did not complete their WTPs in that title. Pursuant to the above rules, employees are required to complete a four-month WTP. As such, the incumbents were scheduled to complete their WTPs for the Paralegal Technician Assistant title on March 26, 2019 and on April 10, 2019. Prior to the completion of their WTPs, the incumbents, as a result of the July 26, 2019 classification determinations, were provisionally appointed as an Investigator 3,⁵ effective February 16, 2019. Thus, they did not complete their WTPs in the Paralegal Technician Assistant title at the time of the February 16, 2019 effective date of their provisional appointment to the Investigator 3 title. As such, their appointment to that title would be considered PAOC as they did not have permanent status as Paralegal Technician Assistants.

Additionally, the record reflects that the incumbents performed out-of-title duties while serving as a Paralegal Technician Assistant. It is noted that this agency has previously determined that an employee who worked out-of-title during the WTP and did not perform the duties of the position was not entitled to permanent status. *See Cipriano v. Dep't of Civil Service*, 151 *N.J. Super.* 86, 376 *A.2d* 571 (App. Div. 1977). Since the incumbents performed out-of-title work while serving as Paralegal Technician Assistants, they could not have completed their WTPs in the title.

However, the appointing authority explained that, as a result of the operational needs of the unit, the incumbents were required to perform Investigator duties, and as such, it was in support of the appointment to the Investigator title series. Given the circumstances surrounding the appointing authority's need for Investigators in the unit, and the fact that a classification determination

⁵ As noted above, the Investigator 3 title was renumbered to Investigator 1 on June 20, 2020.

recommended that the proper classification of their title was Investigator 3, it would be unreasonable to sanction the incumbents by not deeming them to have completed their WTPs in the Paralegal Technician Assistant title. In this regard, the incumbents successfully performed the duties assigned by the appointing authority for a period of time that would be sufficient for completion of a WTP. To now force the incumbents to be subject to open competitive examination proceedings, under these circumstances, could lead to an unjust result. As such, good cause exists to relax the controlling regulatory provisions in order to deem that the incumbents completed their WTPs in the Paralegal Technician Assistant title. As such, they should be recorded as permanent in the Paralegal Technician Assistant title. Moreover, their appointments as Investigator 1 should be recorded as provisional pending a promotional examination (PAP).

This decision is based on the particular facts of this matter and shall not be used as a precedent for any future matters.

ORDER

Therefore, it is ordered that these requests be granted.

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 7TH DAY OF APRIL, 2021

Deirdre' L. Webster Cobb

Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher 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: Deiruska Corrales (Docket No. 2020-1967)
Cullen Huczko (Docket No. 2020-1976)
Mindy Miller (Docket No. 2020-1977)
Robin Nugent (Docket No. 2020-1979)
Jacqueline Poz (Docket No. 2020-1980)
Ismeta Saintclair (Docket No. 2020-1981)
Erin Wyckoff (Docket No. 2020-1982)
Division of Agency Services
Records Center