

subsequent changes in the job specification, it was determined that the title of Crew Leader, Highway Operations, was not a related, above-entry level title to the title of Truck Driver, Single Axle. Additionally, incumbents in the title of Truck Driver, Single Axle do not function as lead workers in the DOT and incumbents would not meet the open competitive requirements for Crew Leader, Highway Operations, even if it was an approved promotional path.

In its request to the Civil Service Commission (Commission), Agency Services states that at the time the State Classification Plan was changed, a number of DOT titles were consolidated so that the DOT could streamline and "right-size" its operations. However, it was never intended to negatively impact the promotional rights of current incumbents in the affected titles. In this case, an unintended consequence of the changes made to the job specification for Crew Leader, Highway Operations, was that employees in the title of Truck Driver, Single Axle, for the reasons stated above, will no longer be able to compete for promotional examinations for the new title. Agency Services indicates that the DOT has submitted a promotional announcement request for the title of Crew Leader, Highway Operations in Unit Scope T222 (Operations). In an effort to ensure maximum competition and minimal negative impact on employees in titles affected by the changes in the State Classification Plan, the DOT has requested that the promotional announcement be announced in accordance with *N.J.A.C. 4A:4-2.5(b)2* and include all competitive division titles between class codes 10 and 16. In light of the unintended negative impact that will occur as a result of the changes made to the State Classification Plan, the DOT requests that the promotional announcement be opened to employees with one year of continuous permanent service in the unrelated non-competitive title of Truck Driver, Single Axle without meeting the open competitive requirements for the promotional title. The instant request would be limited to this single promotional announcement in order to allow current incumbents in the title of Truck Driver, Single Axle a final opportunity to compete for this leadership opportunity, which was available to them prior to the changes in the job specifications. It is noted that Agency Services supports the DOT's request.

A review of agency records indicates that there are currently seven employees serving in the title of Truck Driver, Single Axle (class code 11) in DOT's T222 unit scope. It is noted that changes in the State Classification Plan established the Highway Operations Technician title series by consolidating a number of different titles into the series, creating the Highway Operations Technician Trainee title in the non-competitive division, and establishing the Highway Operations Technician 1 (class code 11) title as the entry-level competitive title to the series. The Crew Leader, Highway Operations is in the Highway Operations title series. Additionally, incumbents in the Truck Driver, Single Axle title, except for the remaining seven incumbents, were cross-walked and laterally appointed to the competitive title of Highway Operations Technician 1.

CONCLUSION

N.J.A.C. 4A:4-1.1(c) provides that a promotion may be authorized through promotional examination procedures from the non-competitive division of permanent employees who meet the open competitive requirements to: 1) a related entry level title in the competitive division; or 2) in appropriate situations, to a related above-entry level title in the competitive division.

N.J.A.C. 4A:4-2.5(d) states that when a promotion is to be made from the non-competitive division of the career service to a related title in the competitive division of the career service, the examination shall be open to all permanent employees who meet one of the following:

1. Serving in the next lower or next two lower in-series non-competitive titles and possessing the complete open competitive requirements; or
2. Serving in all related non-competitive titles and possessing the complete open competitive requirements.
3. All competitive division titles at specified class code levels below the announced title, with or without all or part of the open competitive requirements, and all titles as described in (d)1 or 2 above.

N.J.A.C. 4A:4-2.5(d)5 states that in extraordinary circumstances, another appropriate title scope may be set.

Finally, *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, New Jersey Statutes.

In the present matter, it is appropriate to announce a promotional examination for Crew Leader, Highway Operations to incumbents in the non-competitive title of Truck Driver, Single Axle who do not meet the open competitive requirements. As stated by Agency Services, prior to the title consolidation and reorganization of operations by the DOT, incumbents in this non-competitive title had a promotional path to a leadership position since it was related to the former Assistant Crew Supervisor, Highway Maintenance title. More significantly, a number of former incumbents in the Truck Driver, Single Axle title had their title laterally changed and were cross-walked to the entry-level competitive title of Highway Operations Technician 1 as a result of the change to the State Classification Plan. Thus, as incumbents in the title of Truck Driver, Single Axle do not function as lead workers in the DOT, the incumbents that were cross-walked to the competitive title of Highway Operations Technician 1 may not necessarily satisfy the complete open competitive requirements for Crew Leader, Highway

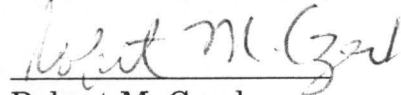
Operations, but would be admitted to the examination by operation of *N.J.A.C. 4A:4-2.5(d)3* because it will be opened to employees in all competitive titles between class codes 10 and 16 without all of the open competitive requirements. Given the extensive changes to the State Classification Plan, it would be unfair not to permit the remaining seven incumbents in the Truck Driver, Single Axle title to compete in the test on the basis of not satisfying the open competitive requirements for the title while those former incumbents that were recently cross-walked to a competitive title can apply even if they do not meet the open competitive requirements for the title. Accordingly, good cause exists to relax the provisions of *N.J.A.C. 4A:4-1.1(c)* and *N.J.A.C. 4A:4-2.5(d)* in order to permit incumbents with one year of continuous permanent service in the non-competitive title of Truck Driver, Single Axle to be eligible for a prospective promotional examination for Crew Leader, Highway Operations. However, the remedy in this situation is specific to the unique circumstances of this case and should not be used as precedent in any other matter.

ORDER

Therefore, it is ordered that this request 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
16TH DAY OF DECEMBER, 2015



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