



**STATE OF NEW JERSEY**

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

In the Matter of Nikolaj Probola,  
Principal Engineer Mechanical  
(PS0593T) and Principal Engineer  
Transportation (PS0636T),  
Department of Transportation

Examination Appeals

CSC Docket Nos. 2020-1503 and  
2020-1518

**ISSUED: FEBRUARY 14, 2020 (SLK)**

Nikolaj Probola appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the education requirements for the promotional examinations for Principal Engineer Mechanical (PS0593T) and Principal Engineer Transportation (PS0636T), Department of Transportation. These appeals have been consolidated due to common issues presented.

The examinations at issue were announced with specific requirements that had to be met as of the September 23, 2019 closing date. The examinations were open to certain titles, including the appellant's permanent title, Contract Administrator 1. The education requirements for the (PS0593T) examination were a Bachelor's degree in Mechanical, Civil or Electrical Engineering while the (PS0636T) examination required a Bachelor's degree in Engineering Technology in a field related to civil engineering from an accredited college having a curriculum approved by the Accreditation Board of Engineering Technology (ABET).<sup>1</sup> Further, both examinations indicated that possession of a valid license as a Professional Engineer issued by the New Jersey State Board of Professional Engineer's and Land Surveyors could substitute for the Bachelor's degree in Engineering. Additionally, the (PS0636T) examination indicated that employees who held permanent status in a professional engineering title that required a Bachelor's degree in Engineering, who were hired prior to June 30, 1999 and had 45

<sup>1</sup> The (PS0593T) examination also allowed a Bachelor's degree in Engineering Technology from an ABET approved program to meet the education requirements.

Engineering college credits met the education requirement. A total of six candidates applied for the (PS0593T) examination and nine applied for the (PS0636T) examination and four were admitted to the (PS0593T) examination and five were admitted to the (PS0636T) examination. It is noted that there is currently one provisional serving in the Principal Engineer Mechanical title and three provisionals serving in the Principal Engineering Transportation title who are in unit scope T222, which is the unit scope that these examinations were open. These lists have not yet promulgated as the tests have not yet been scheduled.

The appellant's college transcript indicated that he possessed a Bachelor's degree in Civil Engineering Technology. Additionally, personnel records indicate that he provisionally served as a Principal Engineer Transportation from March 2018 to the September 23, 2019 closing date, a Contractor Administrator 1 from February 2016 to March 2018, an Assistant Engineer Transportation from August 2015 to February 2016, a Civil Engineer Trainee from August 2014 to August 2015, an Engineering Technician 3 from April 2011 to August 2014, a Truck Driver Single Axle from June 2007 to April 2011 and a Maintenance Worker 1 Transportation from July 2004 to June 2007. Agency Services determined that he lacked the required education for both examinations as his degree in Civil Engineering Technology was not from an ABET approved program.

On appeal, the appellant highlights that he began working for the appointing authority as an Civil Engineer Trainee in August 2014 and has been promoted several times. He notes that the appointing authority paid for his Civil Engineering Technology degree and approved the curriculum. Additionally, the appellant presents that the State Board of Professional Engineers deemed his degree sufficient to sit for the Engineer in Training (EIT) test. Further, he states that he was advised that if he passes the EIT test, this agency might consider this a suitable substitution for the education requirement. Moreover, the appellant indicates that he was provisionally promoted to Principal Engineer Transportation without having to pass the EIT. Therefore, he questions why he is now being advised to take the EIT and why his degree is not sufficient for the subject examinations. The appellant also states that the appointing authority is working with this agency on adding the possession of an EIT license as part of the job specifications for engineering titles and questions why he is being held to standards that are not currently in the job specifications. The appellant argues that, like others who were hired in professional Engineering titles prior to June 30, 1999 and were admitted to the (PS0636T) examination only based on their possession of 45 Engineering college credits, he should be admitted to both examinations based on his 45 college credits in Engineering. Additionally, he presents that he was admitted to the Principal Engineer Transportation (PS8259T) examination and he sat for that test in March 2019. Therefore, the appellant questions how he could be qualified to sit for a Principal Engineer examination last year and not be qualified for the subject examinations with another year's worth of experience. The appellant

notes that although he did not pass the (PS8259T) examination, he only failed by one question. The appellant also complains that the (PS8259T) involved questions regarding bridges and roadwork engineering when his work only involves consultant agreements and task orders. He wonders if there are others throughout the State who had previously been appointed to Engineering titles without having an ABET approved degree and asks if their positions will be re-evaluated.

### CONCLUSION

*N.J.A.C.* 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. *N.J.A.C.* 4A:1-1.2(c) states that the Civil Service Commission (Commission) may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes. *N.J.A.C.* 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

In the instant matter, Agency Services correctly determined that the appellant is not eligible for the subject examinations as his Civil Engineer Technology degree was not from an ABET approved program. The fact that the appellant was admitted to a prior Principal Engineer Transportation examination is not relevant as the Commission notes that eligibility is determined on the basis of each discrete announcement. If the appellant does not meet the requirements for the current announcements, the fact that he was admitted in error to a prior examination for a Principal Engineer title does not provide him with an entitlement to eligibility in the instant matters. No vested or other rights are accorded by an administrative error. *See Cipriano v. Department of Civil Service*, 151 *N.J. Super.* 86 (App. Div. 1977); *O'Malley v. Department of Energy*, 109 *N.J.* 309 (1987); *HIP of New Jersey v. New Jersey Department of Banking and Insurance*, 309 *N.J. Super.* 538 (App. Div. 1998). Similarly, the fact that the appointing authority hired him in a professional engineering title, promoted him, and paid for and approved the curriculum for his Civil Engineering Technology degree and the State Board of Professional Engineers deemed his degree as sufficient to sit for the EIT test is not a substitute for meeting the requirements in the subject examinations.

Concerning the appellant's comments that he believes that it is unfair that the appointing authority is working with this agency to add possession of an EIT license for engineering titles<sup>2</sup> or he believes that he should be grandfathered in like those hired before June 30, 1999 based on his 45 engineer college credits<sup>3</sup>, the appointing authority is entitled to work with this agency to request examination

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<sup>2</sup> It is noted that the subject examinations allow for the possession of a Professional Engineer license to meet the education requirements and do not reference the EIT license.

<sup>3</sup> Although the (PS0636T) examination indicated that those who were hired prior to June 30, 1999 and had 45 Engineering college credits would meet the education requirements for that examination, the appellant started as a Civil Engineer Trainee in 2014 and, therefore, such a substitution clause is not relevant to the appellant.

requirements that best suit its evolving needs as long as those requests are in compliance with Civil Service rules and regulations. The appointing authority need not guarantee a career path for the appellant.

With respect to the appellant's complaint that the (PS8259T) examination involved questions regarding bridges and roadwork engineering and not based on the duties from his work, that examination was developed based on the Knowledge, Skills and Abilities (KSAs) that Subject Matter Experts (SMEs) deemed as necessary to perform the duties of a Professional Engineer Transportation. Finally, in reference to the appellant's statement regarding those who have been appointed to Engineering titles without having a Bachelor's degree from an approved ABET program, as those employees met the requirements for the examinations that they applied for, there is no reason to re-evaluate those employees.

Therefore, there is no reason to relax the rules for the (PS0593T) examination as it is anticipated that this list shall be complete based on the fact that four candidates were admitted to that examination and there is only one anticipated vacancy for the Principal Engineer Mechanical title as there is only one provisional serving in that title in the T222 unit scope. However, it is anticipated that the (PS0636T) shall be incomplete based on there being three provisionals serving as a Principal Engineer Transportation in the T222 unit scope, including the appellant, and there being only five candidates admitted to that examination. Therefore, the Commission finds good cause under *N.J.A.C. 4A:1-1.2(c)* to relax the provisions of *N.J.A.C. 4A:4-2.6(a)*, for eligibility purposes only, and admit the appellant to the (PS0636T) examination.

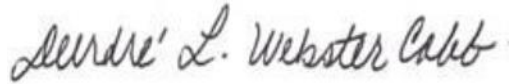
This determination is limited to the instant matter and does not provide precedent in any other matter.

### **ORDER**

Therefore, it is ordered that Nikolaj Probola's appeal for Principal Engineer Mechanical (PS0593T), Department of Transportation be denied. However, his appeal for Principal Engineer Transportation (PS0636T), Department of Transportation be granted, and his 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 12<sup>th</sup> DAY OF FEBRUARY, 2020



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