STATE OF NEW JERSEY

In the Matter of Nicole Funkhouser, Behavior Analyst 2 (S0744A), Statewide	: : : : : : : : : : : : :	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
CSC Docket No. 2020-1862		
		Examination Appeal

ISSUED: **APRIL 17, 2020** (JET)

Nicole Funkhouser appeals the determination of the Division of Agency Services (Agency Services) that she did not meet the experience requirement for the open competitive examination for Behavior Analyst 2 (S0744A), Statewide.

The subject examination was announced with specific requirements that had to be met as of the August 21, 2019 closing date. The requirements were possession of a certificate as a Certified Behavior Analyst by the Behavior Analyst Certification Board, Inc., and one year of post Associate Behavior Analyst certification experience. A total of three employees applied for the subject examination which resulted in a list of one eligible with an expiration date of January 8, 2023. One certification was issued and no appointments have been made.

A review of the appellant's application reveals that she possesses the required certificate as indicated in the announcement, and she served as a provisional Behavior Analyst 2 from March 2019 to the August 21, 2019 closing date. Upon review, Agency Services credited the appellant for her certificate and with six months of applicable experience for her provisional service in the subject title. However, since the appellant did not list additional experience on her application, Agency Services did not credit her with any other applicable experience. Accordingly, Agency Services determined that the appellant lacked six months of applicable experience.

On appeal, the appellant asserts, among other things, that she possesses sufficient experience to qualify for the examination. She states, among other things, that she worked as a board certified Behavior Analyst from May 2017 to March 2019, and as an ABA Specialist/Clinical Manager from July 2016 to May 2017. Additionally, the appellant submits a resume in support of her claims.

Official personnel records indicate that the appellant continues to serve provisionally in the subject title.

CONCLUSION

N.J.A.C. 4A:4-2.3(b) provides that applicants shall meet all requirements specified in the open competitive announcement by the closing date. *N.J.A.C.* 4A:4-2.1(f) provides that examination applications may only be amended prior to the filing date. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular situation. Initially, it is noted that, based on the information the appellant provided on the application, Agency Services correctly determined that the appellant was ineligible for the subject examination. However, a review of the record indicates that the appellant began serving as a provisional in March 2019 and continues to serve provisionally in the title under test. The appellant now has enough applicable experience based on this service. Additionally, the situation is not competitive as there is only one other eligible candidate and the list is incomplete. Under these circumstances, good cause exists to relax the provisions of *N.J.A.C.* 4A:4-2.3(b) and *N.J.A.C.* 4A:4-2.1(f) and accept the appellant's provisional experience before and after the closing date, for eligibility purposes only, and admit her to the examination. Finally, the appellant is cautioned in the future to fully complete any application.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's application be processed.

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 15TH DAY OF APRIL, 2020

Deirdre L. Webster Cobb

_____
Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries   Christopher Myers
 and   Director
Correspondence   Division of Appeals
                             & Regulatory Affairs
                             Civil Service Commission
                             Written Record Appeals Unit
                             PO Box 312
                             Trenton, New Jersey 08625-0312

c: Nicole Funkhouser
        Alfred Filippini
        Kelly Glenn