



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Mary Beth Hueter,  
Investigator 3 Public Defender  
(PS0585Q), Office of the Public  
Defender

Examination Appeal

CSC Docket No. 2016-1462

ISSUED: OCT 25 2016 (RE)

Mary Beth Hueter requests admittance to the promotional examination for Investigator 3 Public Defender (PS0585Q), Office of the Public Defender.

By way of background, the subject promotional examination was announced on April 1, 2015, with an April 21, 2015 closing date. It was open to applicants in the competitive division currently serving in the titles Investigator 2 Public Defender and Investigator 2 Public Defender Bilingual in Spanish and English who had an aggregate of one year of continuous permanent service as of the closing date. Candidates were tested with the Supervisory Test Battery, and 19 candidates appear on the resultant eligible list, which was promulgated on November 5, 2015. No appointments have yet been made. The appellant did not file an application.

In an appeal dated October 8, 2015, the appellant stated that she found out a week before she wrote the letter that this examination had been posted when her supervisor, a provisional Investigator 3 Public Defender, asked whether she would be taking the examination, which was scheduled for October 13, 2015. She states that she cannot recall seeing or reading the promotional test announcement. She provides a copy of an email, dated April 6, 2015, with multiple recipients including her supervisor but not including her, that states "Deputies and Office Managers - Attached please find a CSC promotional announcement for the title of Investigator 3 - Q500. Please ensure that the announcement is posted through the closing date of April 21, 2015. Also, please retain a copy for your records in case the announcement is mistakenly taken down before the announcement period ends so that it can be re-posted." She also includes a letter written by her supervisor, who

states that she applied for the promotion, but cannot recall having a conversation with the appellant about applying for the examination or how she received notice of the promotional announcement. The appellant argues that it is inconceivable to her that she missed this posting, or if she did, she misinterpreted it since the position is referred to in the office as "Assistant Chief" not Investigator 3. She explains that sometime in 2014 the titles were renamed from descriptive titles to numerical titles, and no written comprehensive explanation was given regarding the changes. Also, she states that the numbering of the titles in the series used to be the exact opposite, with 3 being lower than 1. In response to the appeal, the appellant was asked to submit a signed, sworn affidavit that she was not aware of the announcement for the subject examination. The appellant complied and, in her affidavit, the appellant certifies that she cannot recall seeing or reading the announcement, and if it was there, she disregarded it due to confusion and misinterpretation of the title.

*N.J.A.C. 4A:4-2.9(a)*, Make-up Examinations, provides that make-up examinations, except for police, fire and professional level engineering promotional examinations, may be authorized for the following reasons:

1. Error by the Commission or appointing authority;
2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
3. Documented serious illness or death in the candidate's immediate family;
4. Natural disaster;
5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation; and
6. Other valid reasons.

Also, *N.J.A.C. 4A:4-2.1(b)* (Announcements and applications) states that in order to notify all employees of promotional opportunities, promotional examination announcements shall be posted on, and applications shall be made available through, the Civil Service Commission web site and may also be made available through the web sites of affected appointing authorities. If an affected appointing authority does not maintain or utilize a web site, promotional examination announcements shall be conspicuously posted by the affected appointing authority at all geographic locations within the unit scope (in State service) or department (in local service) to which the examination is open. Appointing authorities shall also ensure the notification by electronic or other means of all eligibles of the promotional examination announcement. Appointing authorities shall maintain a record of promotional examination announcement postings and the notification of eligibles of the announcement. It is noted that 19 candidates passed the

examination and appear on the eligible list, which has been certified once, but no appointments have yet been made.

The appointing authority was contacted for input or comments regarding this matter and did not respond.

### CONCLUSION

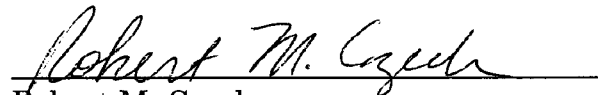
The record establishes that the announcement for the subject examination should have been posted in April 2015, and that there were 32 applicants. The appellant did not apply. She explains that she cannot recall seeing an announcement and had no knowledge of the examination until she was asked if she was taking it by her supervisor a week or so before it was given. Clearly, the announcement was posted somewhere as at least 32 individuals were aware of it. However, it is also reasonable that the appellant may not have seen it, or that she interpreted the title as the lowest in the title series. Moreover, there is no record that the eligibles were personally notified of the announcement by electronic or other means, as required by *N.J.A.C. 4A:4-2.1(b)*. The appellant has provided a signed, sworn affidavit certifying that she cannot recall seeing or reading the promotional test announcement. Based on the unique facts of this case, good cause exists to afford the appellant a make-up examination under *N.J.A.C. 4A:4-2.9(a)6*. DAS should provide the appellant with an application, which she should file along with the filing fee within 10 days of receipt.

### ORDER

Therefore, it is ordered that this appeal be granted, and appellant be scheduled for a make-up examination as soon as possible.

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 19<sup>th</sup> DAY OF OCTOBER, 2016

A handwritten signature in cursive script, reading "Robert M. Czech", is written over a horizontal line.

Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Assistant Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Mary Beth Hueter  
William Wander  
Terri Corus  
Michelle Karngbaye  
Records Center