



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Deborah Rodriguez
and Damond Yearns, Supervising
Program Support Specialist,
Assistance Programs (PS1332K),
Department of Children and Families

Administrative Appeals

CSC Docket Nos. 2017-1878 and
2017-1888

ISSUED: **MAR 24 2017** (SLK)

Deborah Rodriguez and Damond Yearns appeal the determination of the Division of Agency Services (Agency Services) that they either lacked the required amount of permanent status in a title to which the examination was open or were not permanent in a title to which the examination was open for Supervising Program Support Specialist, Assistance Programs (PS1332K), Department of Children and Families. These appeals have been consolidated due to common issues presented.

The examination at issue was announced with specific requirements that had to be met as of the July 21, 2016 closing date (see attached). There were ten employees who applied for, and four deemed eligible for the subject examination. The list expires on November 30, 2019.

A review of personnel records indicates that Ms. Rodriguez was permanently appointed as a Program Support Specialist 1, Assistance Programs, effective March 19, 2016 and currently serves in that title. She had been provisionally appointed to that title pending a Qualifying Examination on March 5, 2016. Previously, she had served permanently as a County Services Specialist from April 2013 to March 2016. The examination was only open to employees who had an aggregate of one year of continuous permanent service as a Program Support Specialist 1, Assistance Programs immediately preceding the closing date. Therefore, Agency Services determined that the appellant was not eligible for the subject examination since she

lacked one year of continuous permanent service as of the closing date in a title to which the examination was open.

A review of personnel records indicates that Mr. Yearn was permanently appointed as a County Services Specialist, effective April 19, 2014 and currently serves in that title. Therefore, Agency Services determined that the appellant was not eligible for the subject examination since he was not permanent in a title to which the examination was open.

On appeal, Ms. Rodriguez presents that her prior permanent title was County Services Specialist. She states that Human Resources advised her that County Services Specialist and Program Support Specialist 1, Assistance Programs were "equivalent titles" and after she passed a Qualifying Examination, her title was laterally changed and she was permanently appointed to that title effective March 19, 2016. Therefore, Ms. Rodriguez argues that since the County Services Specialist and Program Support Specialist 1, Assistance Programs titles are equivalent, she meets the eligibility requirements.

Mr. Yearn presents that he has more than six years of continuous permanent service as a County Services Specialist. He believes that he should be eligible for the subject examination based on his experience and education. He contends that County Services Specialist and Program Support Specialist 1, Assistance Programs are equivalent titles. Therefore, Mr. Yearn questions why this examination was only open to those who had one year of continuous permanent service as a Program Support Specialist 1, Assistance Programs.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)1 provides that applicants for promotional examinations shall have one year of continuous service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open.

N.J.A.C. 4A:4-2.5(b) provides that when a promotion is made from a professional title to a professional title, it shall be open to permanent competitive division employees serving in one of the following:

1. The next lower or next two lower in-series titles.
2. The next lower, in-series title, and all other permanent competitive division employees who meet the complete open competitive requirements.
3. To related titles, pursuant to an established plan approved by the Chairperson of the Civil Service Commission or designee;

4. Competitive division employees who meet complete open competitive requirements and all titles as described in (d)1 or 2 above; or

N.J.A.C. 4A:4-7.6(a) provides that a lateral title change is the movement of permanent employee from his or her permanent title to an equivalent title within the same organizational unit.

N.J.A.C. 4A:1-1.3 provides that a "lateral movement" means an employee movement from one position to another with a similar salary and level of duties, responsibilities, and qualifications and, where applicable, the same class code.

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, the subject promotional announcement was only open to employees who had one year of continuous permanent service in the Program Support Specialist 1, Assistance Programs title immediately preceding the June 21, 2016 closing date. However, Ms. Rodriguez only had three months of continuous permanent service in that title immediately preceding the closing date and her prior permanent title was County Service Specialist. Mr. Yearns has over one year of continuous permanent services as County Service Specialist immediately preceding the closing date, but this examination was not open to incumbents in this title. The appellants both assert that County Service Specialist is an equivalent title to Program Support Specialist 1, Assistance Programs and therefore argue that they should be determined to have met the eligibility requirements. However, in compliance with *N.J.A.C.* 4A:4-2.5(b)1, this examination was only announced to the next lower in-series title. It is irrelevant that the County Service Specialist and Program Support Specialist 1, Assistance Programs are lateral titles. Thus, there is no evidence of misapplication of the controlling regulatory provision. Accordingly, Agency Service correctly determined that the appellants did not have one year of continuous permanent service in a title to which the exam was open.

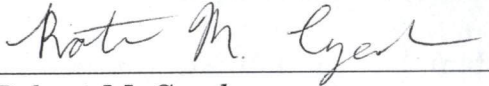
With respect to Mr. Yearns question as to how the subject examination can only be open to the Program Support Specialist 1, Assistance Programs title, generally, the title scope for a promotional examination is determined by the appointing authority or by the title scope of the provisional incumbent in the title and the appointing authority is vested with the discretion to choose the appropriate title scope from the options set forth in *N.J.A.C.* 4A:4-2.5. See *In the Matter of Mitchell Dinnerstein*, Docket No. A-1680-05T5 (App. Div. September 29, 2006), cert. denied, 189 *N.J.* 647 (2007). Accordingly, the appointing authority had the discretion to limit the subject examination to those who served in the next lower in-series title.

ORDER

Therefore, it is ordered that the appeal be denied.

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 22nd DAY OF MARCH, 2017



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c:

Deborah Rodriguez
Damond Yearn
Kelly Glenn
Records Center ✓

NEW JERSEY CIVIL SERVICE COMMISSION-STATE SERVICE
PROMOTIONAL ANNOUNCEMENT



\$25.00 PROCESSING FEE REQUIRED
 Make Check/Money Order Payable to NJCSC

SYMBOL: PS1332K	WEIGHT CODE: *
TITLE: SUPERVISING PROGRAM SUPPORT SPECIALIST ASSISTANCE PROGRAMS	SALARY: \$74,252.00 - \$105,891.00
ISSUE DATE: July 01, 2016	CLOSING DATE: July 21, 2016
TITLE CODE: 62104D/GIFXR9	CLASS CODE: 29
DEPARTMENT: CFA/CHILDREN AND FAMILIES	
UNIT SCOPE: CF52 DCP&P Central Office Field Support	

Visit www.state.nj.us/csc
 And select "Job Announcements"
 to view this announcement and to file an application

Open to employees in the competitive division who are currently serving in a title to which the announcement is open and have an aggregate of one year of continuous permanent service as of the closing date in the following title(s):

Program Support Specialist 1 Assistance Programs

Note: This announcement may be tested via the Supervisory Test Battery, a computer-administered exam. For information regarding the Supervisory Test Battery, please refer to our website <http://www.state.nj.us/csc/seekers/about/steps/step7.html>.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed, including assignment to the department and unit scope, must be met as of the closing date.
2. ONLY ON-LINE APPLICATIONS WILL BE ACCEPTED. YOU MUST COMPLETE YOUR APPLICATION IN DETAIL. Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full- and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill full-time and part-time positions. If 35- and 40-hour positions are used within the unit scope, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.
5. In accordance with Public Law 2010 c.26, Veterans pay a reduced application fee of \$15.00 if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES.
6. SPECIAL NOTE TO ALL APPLICANTS Please make sure you are assigned to the unit scope indicated above. If you do not know your unit scope assignment, please contact your Human Resource Office. If you file an application for this announcement and you are not assigned to the unit scope indicated above, YOU WILL BE FOUND INELIGIBLE FOR THIS EXAM AND YOUR APPLICATION FEE WILL NOT BE REFUNDED.
7. If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours, 8:00 a.m. to 4:00 p.m. EST, Monday - Friday, excluding holidays and emergency closings. Please Email: OAS.support@csc.state.nj.us or call (609) 292-4144. Please note that application support requests received outside regular business hours on the closing date will not change the application filing deadline so PLEASE FILE EARLY.

DPF-256A * Revised 03/09

