



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Cesar Luna,  
Campus Police Officer Recruit,  
Stockton University

Administrative Appeal

CSC Docket No. 2017-2396

ISSUED: MAY 19 2017 (RE)

Stockton University (Stockton) requests a retroactive appointment for Cesar Luna to November 2, 2013 based on an administrative error.

By way of background, Cesar Luna was permanently appointed to the non-competitive title of Security Officer on November 2, 2013. On March 8, 2014, he was provisionally appointed to the title of Campus Police Officer Recruit, pending promotional examination appeal procedures. He was regularly appointed from the eligible list for Campus Police Officer Recruit (PS1055J) on November 6, 2015. Thereafter, in June 2016, Stockton requested a retroactive appointment for Mr. Luna on the basis of an administrative error. Specifically, Stockton states that in October 2013, prior to hiring Mr. Luna, it received advice from the Division of Agency Services that the title Campus Police Officer Recruit was not on the application for the Law Enforcement Examination (LEE). Stockton was told that it could only hire employees in this title through a promotion. Following this advice, it hired Mr. Luna as a Security Officer in the non-competitive division.

Mr. Luna applied for the LEE in 2010, and passed, with a final average of 70.140 and a rank of 18,412. This list was promulgated on June 10, 2011 and expired May 1, 2014. In a request dated June 27, 2016, Stockton contends that it would have appointed Mr. Luna from the (S9999M) list had it been advised that it could do so. It explains that Mr. Luna took the LEE again (S9999R) in November 2013 and failed. It explains that he took the LEE a second time on the assumption that his previous score was invalid. Stockton maintains that for (S9999M) Mr. Luna indicated he would accept employment in all jurisdictions, as evidenced by a

duplicate Notification of Eligibility sent to Mr. Luna on June 10, 2016. Stockton states that Mr. Luna's failing score on the second LEE (S9999R) caused an extended delay in his appointment.

### CONCLUSION

At the outset, it is noted that the appointing authority requests a retroactive appointment for Mr. Luna based on advice received prior to his employment with Stockton. In October 2013, the appointing authority asked if there was a box that applicants check on the application for Campus Police Officer Recruit. It was told that it is not on the regular Police Officer application. This is true, however, it is ambiguous, as there was a box on the application for all other police titles. This was the box for applicants to check if interested in a Campus Police Officer Recruit appointment. Nevertheless, the Civil Service Commission posted the "2010 Law Enforcement Examination Administration Guide" on its website. On the first page, the guide listed three title announcements, and the first announcement included Campus Police Officer Recruit. As such, the public, including all candidates and appointing authorities, was on notice that the 2010 LEE included Campus Police Officer Recruit.

Stockton was also told that it could only hire in this title through a promotion unless there were less than three eligibles. This information was given in October 2013. According to the email, this information was a follow-up to information given in a phone call. There had been two prior promotional examinations (PS8588J) and (PS6431J) which resulted in incomplete lists although three appointments were made from these lists in 2012. While the information given could be read out-of-context, it is correct in that it indicates that a promotional list must be used before an open-competitive list as long as it is a complete list. See *N.J.A.C. 4A:4-3.7*.

Even so, the application for the LEE asks candidates to indicate areas in which they are willing to accept employment. For the 2010 LEE (S9999M), Mr. Luna indicated a preference only for Camden County, while the appointing authority is located in Atlantic County. As such, even if the appointing authority had requested and received a certification for Campus Police Officer Recruit in a timely fashion, Mr. Luna would not have been included in the applicant pool. Stockton submits a duplicate Notification of Eligibility for Mr. Luna for (S9999M) which has a notation on it stating "Jurisdiction: ALL JURISDICTIONS." It submits that that this indicates that he would accept employment in all jurisdictions. However, the notation is in reference to the jurisdictional requirement for this symbol and is not a reference to the preferences selected by the candidate on the application. Mr. Luna would not have been certified from the (S9999M) applicant pool for any certification requested by Stockton.

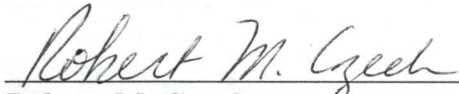
Stockton maintains that Mr. Luna took the next LEE examination in 2013 on the basis that he was incorrectly advised to retake the examination, and if he had not, his passing score for the prior administration would have transferred. This is incorrect. As indicated in the 2013 LEE Administration Guide on page 6, "Candidates who took the 2010 LEE cannot carry over their scores to the 2013 LEE announcement. If you want to be included in the new eligible pool resulting from the 2013 announcement, you must file a new application and take the exam when it is scheduled." Mr. Luna's score from the 2010 examination could not be carried over, as the eligible pool resulting from the 2010 LEE announcement expired when the new pool from the 2013 LEE announcement became active. While Stockton could have received incorrect information in 2013 regarding the use of the LEE for making appointments to the title Campus Police Officer Recruit, there is no basis to provide Mr. Luna with retroactive seniority in this title.

ORDER

Therefore, it is ordered that the request 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  
THE 17<sup>th</sup> DAY OF MAY, 2017



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