



STATE OF NEW JERSEY

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

In the Matter of James DeRose,
Section Chief Planning, Department
of Transportation

Examination Appeal

CSC Docket No. 2020-1437

ISSUED: JANUARY 17, 2020 (SLK)

The Division of Agency Services (Agency Services) requests a relaxation of *N.J.A.C. 4A:4-7.6(c)4*, on behalf of the Department of Transportation, to enable the lateral title change of James DeRose, a Section Chief, to the title of Section Chief, Planning.

By way of background, on June 4, 2019, the appointing authority requested that DeRose be laterally appointed from his current permanent title, Section Chief (title code 15881), to the newly created variant title, Section Chief, Planning (title code 15881H), with retention of permanent status and seniority, but without an examination or working test period. However, since the titles are dissimilar, the request was denied on July 16, 2019, and the appointing authority was advised to submit a qualifying examination application for review and determination.

The qualifying examination package was submitted to Agency Services on October 4, 2019. After a thorough review of all documentation, it was found that DeRose meets the requirements for Section Chief, Planning. However, prior to Agency Services issuing its determination, it was revealed that a promotional examination announcement for the same title and unit scope (PS0279T – unit scope T385) was issued in August 2019. Symbol PS0279T was generated as a result of the appointing authority changing the title of three provisional Section Chiefs to the Planning variant. Pursuant to *N.J.A.C. 4A:4-7.6(c)4*, a lateral qualifying examination cannot be processed when there is a request for a promotional

examination. Consequently, Agency Services denied the request as processing the qualifying examination for DeRose was prohibited.

The appointing authority indicates that it was its intent to submit the qualifying examination package prior to the announcement of PS0279T. However, due to its administrative error, there was a delay. Specifically, the paperwork was misplaced during staff moves within the offices of the appointing authority. Nevertheless, when considering that DeRose has been permanently serving in the base title and performing the duties of the variant title since 2006, Agency Services believes that there is good cause to allow immediate processing of the qualifying examination.

CONCLUSION

N.J.A.C. 4A:4-7.6(c)4 provides that a lateral title change pending examination shall not be permitted when either a special reemployment or complete promotional list exists or when an appropriate representative of the Civil Service Commission (Commission) has received a request to conduct a promotional examination. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

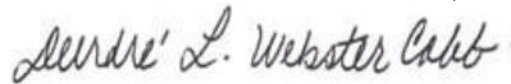
Initially, Agency Services correctly denied the lateral transfer of DeRose from his permanent title of Section Chief to the title of Section Chief, Planning as the lateral title change was not permitted under *N.J.A.C.* 4A:4-7.6(c)4 due to an existing promotional examination announcement for the same title and unit scope. However, Agency Services explains that it was the appointing authority's intent to submit DeRose's qualifying examination package to Agency Services for a determination prior to the announcement for the subject promotional examination. However, due to the appointing authority's administrative error, there was a delay. Further, Agency Services indicates that DeRose has been permanently serving in the base title performing the duties of the variant title since 2006. Finally, this determination will not adversely affect those individuals eligible to compete for the promotional vacancies to this title. 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:4-7.6(c)4 and for Agency Services to process the qualifying examination.

ORDER

Therefore, it is ordered that this request be granted and Agency Services shall process James DeRose's qualifying examination.

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 JANUARY, 2020



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