

STATE OF NEW JERSEY

ISSUED: JANUARY 31, 2020 (JET)

In the Matters of Antoine Nicolas and Michael Howley, Highway Operations Technician 2 (PS9781T), Department of Transportation	•	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION
CSC Docket Nos. 2020-336 and 2020-352	:	Examination Appeal

Antoine Nicolas and Michael Howley appeal the determinations of the Division of Agency Services (Agency Services) that they did not meet the license requirement for the promotional examination for Highway Operations Technician 2 (PS9781T), Department of Transportation. Since these matters concern similar issues, they have been consolidated herein.

The promotional examination was announced with specific requirements which had to be satisfied by the May 21, 2019 closing date. Specifically, the examination was open to employees serving as a Highway Operations Technician 1 who possessed a valid Commercial Driver's License (CDL), Class A, with tanker endorsements and without airbrake restriction. Applicants were required to attach a copy of their license to the application. It was noted that failure to attach a copy of the license with endorsements would result in ineligibility for the subject examination. Sixty-five applicants were admitted to the subject examination and the list has not yet promulgated.

Upon review of the appellants' applications, Agency Services credited them for their service as a Highway Operations Technician 1. Agency Services did not credit them with possession of a valid CDL license. In this regard, Nicolas' uploaded license was unreadable. Additionally, there is no indication that Howley uploaded his license. Accordingly, Agency Services determined that the appellants were ineligible for the examination as they did not possess the applicable driver's license. On appeal, the appellants maintain that the meet the experience requirements. In support, they submit copies of their valid CDL, Class A driver's licenses with tanker endorsements and without airbrake restriction.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)2 provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. N.J.A.C. 4A:1-1.2(c) states that the Civil Service Commission (Commission) may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Under N.J.A.C. 4A:4-2.1(g), the Commission can accept clarifying information in eligibility appeals. However, N.J.A.C. 4A:4-2.1(f) provides that an application may only be amended prior to the announced closing date. For example, information submitted on appeal pertaining to duties in a given position that expands or enlarges information previously submitted is considered clarifying and is accepted. However, any documentation indicating work in a setting that was not previously listed on an application or resume cannot be considered after the closing date. Thus, the Commission can only consider information provided on appeal regarding the positions listed in the appellants' original applications. See In the Matter of Diana Begley (MSB, decided November 17, 2004).

In this case, Nicolas provides clarifying documentation confirming that he possesses the proper CDL license. As such, the Commission is satisfied that he satisfies the requirements. Regarding Howley, while he did not apparently upload his license, given that is the only requirement and his license presented on appeal was valid prior to the closing date, the Commission will relax the provisions of N.J.A.C. 4A:4-2.1(f) and accept the license. In this regard, the purposes of the Civil Service System are best served when more candidates are permitted to demonstrate their merit and fitness for promotion via examination. Under these circumstances, the appellants should be admitted to the subject examination. However, both appellants are warned to ensure that any future applications are fully completed.

This decision is based on the particular facts of this matter and shall not be used as a precedent for any future matters.

ORDER

Therefore, it is ordered that these appeals be granted and the appellants' applications be processed for prospective employment opportunities only.

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 29th DAY OF JANUARY, 2020

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