



STATE OF NEW JERSEY

In the Matter of James Somers,
Quality Assurance Coordinator
(PS0645H), Department of Health

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

CSC Docket No. 2022-3240

Examination Appeal

ISSUED: January 18, 2023 (HS)

James Somers requests relief regarding the promotional examination for Quality Assurance Coordinator (PS0645H), Department of Health.

The subject examination was announced with a closing date of October 21, 2019 and open to employees who were currently serving in the title of Quality Assurance Specialist, Health Services and possessed one year of continuous permanent service. Sixteen employees were admitted to the examination, which was administered on April 21, 2022 as a written test. The resulting eligible list promulgated on June 2, 2022 with eight eligibles and does not expire until June 1, 2025. A certification was issued on June 3, 2022, and four individuals were appointed effective July 16, 2022, July 30, 2022, and August 27, 2022, respectively. Another certification of the subject eligible list was issued on September 22, 2022, and two individuals were appointed effective November 19, 2022. There is one active eligible remaining on the list.

Agency records indicate that the appellant received a permanent appointment to the title of Quality Assurance Specialist, Health Services effective November 24, 2018. Consequently, since the appellant lacked one year of continuous permanent service as a Quality Assurance Specialist, Health Services, the Division of Agency Services (Agency Services), on March 25, 2020, found him ineligible for the examination.

On appeal to the Civil Service Commission (Commission), the appellant indicates that he understood Agency Services' March 25, 2020 determination to deem him ineligible based on the announcement requirements. He also states that he expected and accepted a delay in holding the examination due to the onset of the COVID-19 pandemic. However, he takes issue with the holding of the written test without any adjustment made to acknowledge the more than two years that elapsed since the examination announcement, as he has since accrued more than one year of continuous permanent service as a Quality Assurance Specialist, Health Services. Holding the written test after such a long period without reannouncement was, in the appellant's view, illogical and unreasonable. He maintains that the situation is unfair because another examination may not be announced until 2025, when the current list expires. In the appellant's opinion, the more than two-year gap without an opportunity to recruit additional qualified candidates inequitably prevented the elevation of qualified candidates. The appellant also notes that examination administration is a major part of this agency's duties and proffers that the suspension of examinations was inexcusable. Thus, he requests accommodations so that he may be considered for the subject examination.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides, in pertinent part, that applicants for promotional examinations shall have one year of continuous permanent 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:4-2.1(d) provides that a promotional examination *may* be reannounced if, within one year of the closing date, the examination has not been developed and scheduled.

In this matter, the appellant contends that holding the written test more than two years after the examination announcement without reannouncement was improper. However, no rule strictly *required* reannouncement, *see N.J.A.C.* 4A:4-2.1(d) (providing only that promotional examination *may* be reannounced if, within one year of the closing date, the examination has not been developed and scheduled), and the appellant has no vested right to appointment. Although the appellant argues that the more than two-year gap without an opportunity to recruit additional qualified candidates inequitably prevented the elevation of qualified candidates, the record reflects that 16 candidates were admitted to the examination; a complete eligible list of eight names resulted; and several individuals received promotions. Further, while the appellant may take issue with the suspension of examinations, this agency has discretion to provide for the administration of examinations, including their scheduling. *See N.J.S.A.* 11A:4-1 and *N.J.A.C.* 4A:4-2.8. Moreover, all State agencies were explicitly authorized to take "appropriate steps to address the public health hazard of COVID-19." *See* Executive Order No. 103 (Murphy, March 9,

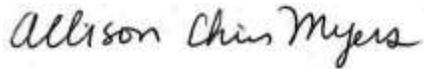
2020) (declaring Public Health Emergency and noting that COVID-19 illness can spread from person to person via respiratory droplets produced when an infected person coughs or sneezes)¹ and Executive Order No. 280 (Murphy, January 11, 2022) (declaring new Public Health Emergency due to Omicron variant surge).² Set against the backdrop of the obvious challenges COVID-19 posed to in-person testing, as evidenced by the Public Health Emergency declarations, the timing of the administration of the written test was not unreasonable. Accordingly, Agency Services' original correct determination that the appellant was ineligible for the subject examination stands, and there is no basis for any relief.

ORDER

Therefore, it is ordered that this 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 ON
THE 18TH DAY OF JANUARY, 2023



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¹ The Public Health Emergency declared in Executive Order No. 103 was terminated effective June 4, 2021. See Executive Order No. 244 (Murphy, June 4, 2021).

² The Public Health Emergency declared in Executive Order No. 280 was terminated effective March 4, 2022. See Executive Order No. 292 (Murphy, March 4, 2022).