Welcome to Issue 8 of The Reporter!

The Civil Service Commission (Commission) had a busy first quarter of 2021, which included phase one of the resumption of examination administrations and the continued efforts to attract prospective employees through Virtual Information Sessions with students, veterans, and residents of the State. Due to the COVID-19 pandemic, all Commission Public Events are being held on virtual platforms until further notice.

The COVID-19 pandemic has also taken a toll on areas entrusted to the Commission in assisting jurisdictions with the recruitment of qualified employees and the promotion of existing employees based on merit and fitness, and as much as practicable, by way of examination. As Chairperson and Chief Executive Officer of the Commission, I have been proud to lead a merit-based system that strives to promote fair examinations and equality in the workforce. The health and safety of our community, including our test takers, trainees, and employees, come first. Thus, a gradual and thoroughly thought out plan has been devised in order for assembled testing to resume.

In Issue 8 of The Reporter, we cover topics pertaining to public safety issues, from appointments and list revivals to court decisions and legislative changes. We highlight the recently passed legislation which affords certain law enforcement candidates with an exemption from the Law Enforcement Examination (LEE). Issue 8 also provides examination application tips to prospective and current employees and a discussion on the impact of the COVID-19 pandemic to testing and appointments.

We look forward in continuing to provide equal opportunity for all candidates and employees in the safest way possible.

Best regards,

Deirdré L. Webster Cobb, Esq.
Chair/Chief Executive Officer
New Jersey Civil Service Commission
The dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. See Communications Workers of America v. New Jersey Department of Personnel, 154 N.J. 121 (1998). The Commission recognizes that situations arise where unique remedies are warranted so that individuals may be provided with employment opportunities and appointing authorities may given assistance in their recruitment needs. Consistent with this tenet, the Governor and Legislature expanded opportunities for law enforcement candidates to obtain entry level positions in the enactment of P.L. 2021, chapter 7, which provides for a waiver of the Law Enforcement Examination (LEE) when certain conditions are met. See Legislative Update.

The following cases illustrate the Commission’s authority, pursuant to N.J.A.C. 4A:1-1.2(c), to relax a rule for good cause to effectuate the purposes of Title 11A, New Jersey Statutes, in the context of public safety appointments and list revivals and extensions.

**In the Matter of Brianna Gonzalez and Brody Wentzell**  
(CSC, decided January 20, 2021)

The Department of Environmental Protection (DEP), on behalf of Brianna Gonzalez and Brody Wentzell, requested that the Commission relax N.J.A.C. 4A:4-2.15(i) to permit the application of their scores on the 2016 LEE (S9999U) to the promotional examination for State Park Police Officer Trainee (PS1614G), DEP, and grant them retroactive dates of permanent appointment. N.J.A.C. 4A:4-2.15(i) states that a candidate for an examination may be permitted to use an examination score for a period of time, or for more than one title or more than one test, as determined by the Chairperson or designee.

Upon review, the Commission stated that, while it was initially appropriate not to utilize the LEE scores for the subject examination, as more than two years had passed since Gonzalez and Wentzell took the test, it could not be ignored that the only two eligibles on the State Park Police Officer Trainee (PS1614G), DEP, resigned from State service prior to the list’s promulgation date. Thus, Gonzalez and Wentzell would be the only two candidates competing in an examination for the subject announcement. The Commission also indicated that there was no regulatory prohibition against the utilization of a score for another announcement more than two years after a candidate takes a test. It would only be inappropriate to do so if there was a psychometric basis not to utilize a test score after more than two years. As Gonzalez and Wentzell both achieved passing scores on the LEE (S9999U), the resultant promotional eligible list for the current active employees would be ranked utilizing the same testing instrument.

Therefore, the Commission found it appropriate to permit Gonzalez’s and Wentzell’s scores from the (S9999U) eligible list to be applied to the subject promotional examination. With respect to the appointing authority’s request for a retroactive appointment date, given that Gonzalez and Wentzell had been performing the duties of the positions since their provisional appointments in 2019, and under the unique facts of the situation, the Commission found good cause to record Gonzalez’s and Wentzell’s permanent appointments as State Park Police Officer Trainees from the PS1614G eligible list retroactively to November 7, 2020.* To review the full text, click here.

* Gonzalez and Wentzell have petitioned the Commission for an earlier effective date. That matter is still pending as of the publication of Issue 8.

**In the Matter of Human Services Police Department**  
(CSC, decided January 20, 2021)

The Department of Human Services (DHS) requested that the Commission permit utilization of promotional announcement procedures for the title of Police Officer Recruit Human Services. DHS stated that staff levels of sworn officers in the Police Officer Human Services title series were at an all-time low. DHS conveyed its concern that this would adversely impact the safety and well-being of the unique client population to which its police department provides services. It also noted that, in addition to providing law enforcement services to DHS facilities, the Human Services Police Department provides police services to the facilities under the jurisdiction of the Department of Health as well as to the Department of Children and Families. Additionally, DHS indicated that regular appointment and certification procedures by utilizing the LEE list had not provided a sufficient number of individuals willing to accept an appointment to the Police Officer Recruit Human Services title.
Further, DHS advised that its Police Department also utilizes employees in the non-competitive title of Security Officer to assist in its mission to protect the facilities and individuals with special needs and disabilities. Based on the foregoing, DHS maintained that it would be beneficial to promote Security Officers to the title of Police Officer Recruit Human Services through promotional procedures. DHS stated that if its request was granted, it would ensure that individuals who selected the Police Officer Recruit Human Services title area in the LEE would be notified that potential appointments would be made promotionally from the Security Officer title and that they would also be provided the opportunity to apply. Thus, the LEE list would be utilized as one of the recruiting tools by the DHS when making non-competitive appointments to the Security Officer title.

Moreover, in order to immediately address the critical staffing shortages in the Human Services Police Department, DHS also requested that Juan Acosta, Skylar Dixon and Derek Enriquez, who were then serving as Security Officers, be permitted to file a late application or take a make-up examination for the (S9999A) LEE. Additionally, DHS requested retroactive provisional appointments, pending promotional examination procedures, to the title of Police Officer Recruit Human Services for Acosta, Dixon and Enriquez, as well as for Joseph Brandecker, Shawn Canada, Matthew Lewis, and Steven Mecke. Given the extensive reasons presented by DHS, the Commission approved the requests. The Commission also indicated that the majority of individuals on the last three certifications issued by this agency for Police Officer Recruit Human Services either withdrew from the process or did not respond to any type of contact. Furthermore, it noted that the Security Officers are specifically trained to provide assistance and protection to persons with disabilities and special needs and the facilities that serve these individuals. Finally, the Commission observed that working primarily with clients and facilities clearly distinguished the Police Officer Human Services titles series from other law enforcement title series.

Therefore, the Commission found that permitting promotional opportunities to a related competitive title under this unique situation was consistent with Civil Service law and rule. The Commission emphasized that while promotional procedures are not appropriate for all entry level law enforcement titles, the specialized nature of the Police Officer Human Services title series and the specific facts of the situation warranted this process. The Commission stated that since DHS was going to utilize the LEE list as part of its process to recruit Security Officers, the Commission would also post similar notification on its website regarding employment opportunities for Security Officer with DHS. Thus, any eligible who selected the title area of Police Officer Recruit Human Services would receive notice of the appointment opportunity. Moreover, the Commission permitted Acosta, Dixon and Enriquez to file late applications for the (S9999A) LEE, given the unique circumstances of this matter. Further, to address the critically low staffing levels, the Commission found it appropriate for Acosta, Brandecker, Canada, Dixon, Enriquez, Lewis, and Meckel to be appointed provisionally pending promotional examination procedures retroactive to January 2, 2021. To review the full text, click here.

In the Matter of Promotional Lists for Deputy Fire and Police Chief, Fire and Police Chief, and Fire Officer 4 (CSC, decided March 24, 2021)

The Division of Agency Services (Agency Services) requested that 13 eligible lists for promotional public safety titles be revived and extended for one year beyond their original expiration date, not to exceed four years, or until a new list becomes available, whichever occurs first. The subject promotional eligible lists included the titles of Deputy Fire Chief, Fire Chief, Fire Officer 4, Deputy Police Chief, and Police Chief for various jurisdictions and promulgated between June 8, 2017 and January 4, 2018 and expired between June 7, 2020 and January 3, 2021.

The Commission found that good cause existed to revive and extend the subject lists. In particular, it cited the importance of such action to ensure that the jurisdictions could fill potential vacancies in order to provide appropriate public safety protection. The Commission further noted that while provisional appointments may be made in the absence of a list, a basic tenet of the Civil Service Act and its implementing rules is that appointments and promotions are awarded based on merit and fitness, which is measured by competitive examinations (as much as practicable). Thus, by extending these lists, it would ensure that fully qualified candidates would be appointed rather than untested provisional employees.

Accordingly, the Commission granted Agency Services’ request to revive and extend the promotional lists at issue. To read the full text, click here.
On February 4, 2021, Governor Philip D. Murphy signed into law P.L. 2021, chapter 7. See N.J.S.A. 11A:4-1.3. The law provides candidates for certain entry-level law enforcement positions with an exemption from the LEE and allows them to be appointed upon successful completion of an approved police training course. Thus, appointing authorities are given another option to fill critical positions in our State. Likewise, the examination exemption provides candidates with an additional avenue to obtain a position.

As Governor Murphy stated the “bill would allow, but not require, an appointing authority to hire a candidate based upon completion of a course that teaches and tests an array of qualities and skills necessary to become a successful law enforcement officer. This can serve as a particularly useful tool for localities seeking to expand the diversity of their police forces in instances where the test may have limited that option.”

Governor Murphy also emphasized his commitment to creating a fairer New Jersey, which includes “ensuring equality among the ranks of our valued law enforcement officers.” Governor Murphy reminded “both appointing authorities and candidates seeking to utilize the option created by this bill that, once hired, these employees enjoy the full range of [C]ivil [S]ervice protections, which will continue to be robustly enforced.” To view Governor Murphy’s statement in its entirety, click here.

The new law provides, in part, that the Commission shall exempt from the examination requirement individuals who have successfully completed a police training course at a school approved and authorized by the New Jersey Police Training Commission.

Additionally, the law states that “[a] municipal or county police department may hire a person, exempt from the requirement to take an examination for an entry-level law position pursuant to [N.J.S.A. 11A:4-1.3a], upon adoption of an ordinance or resolution by the governing body authorizing such hiring by the police department and the adoption of a conflict of interest and nepotism policy.”

This law takes effect six months following its enactment, which is August 4, 2021. To view the legislation in its entirety, click here.

To view enacted regulations and laws which affect Civil Service employees and employers, please follow this link. For information on proposed and recently adopted regulations, please visit our Proposed and Recently Adopted Regulations page. If you wish to register for the Rules e-Notification system, which emails recipients regarding Civil Service regulatory activity, please click here.
In the Matter of Matthew Bermudez,
Police Officer (S9999U), Linden
Docket No. A-0373-19T1

Court affirmed In the Matter of Matthew Bermudez (CSC, decided August 14, 2019) in which the Commission upheld the list removal of a Linden Police Officer candidate for an adverse driving record among other reasons.

Matthew Bermudez was employed as a Public Safety Telecommunicator with the Linden Police Department. He took the open competitive examination for Police Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal from the Police Officer eligible list, Linden indicated that Bermudez had problems. These issues were set forth in his background report, which indicated that he was terminated from other job positions in 2007 and 2010 prior to his employment with Linden; he was disciplined as a Public Safety Telecommunicator in 2013, 2014, and 2017; and his driver’s license was suspended in 2006, 2008 and 2011.

On appeal to the Commission, Bermudez supplied his most recent driver’s abstract by using his position within the police department, which was in violation of departmental rules, and argued that his violations occurred when he was a young driver. However, the Commission determined that removal of his name from the list of eligibles was warranted. On appeal to the Appellate Division, the court affirmed the Commission’s decision, indicating that the decision was not arbitrary, capricious, or unreasonable based on Bermudez’s driving record. In addition, the court noted that “[a]s the record further developed on appeal before the Commission to include Bermudez’s employment and disciplinary history as well as the incident involving the updated driver’s abstract, it only bolstered the City’s decision to remove Bermudez from the eligibility list pursuant to N.J.A.C. 4A:4-6.1(a)(7) and (9).”

In the Matter of Maurice Jackson,
Mercer County Corrections Center
Docket No. A-5566-18T2

Court affirmed In the Matter of Maurice Jackson (CSC, decided July 31, 2019) in which the Commission upheld a County Correctional Police Officer’s 50-day suspension for falling asleep and found the penalty not disproportionate due to public safety concerns.

Maurice Jackson, a County Correctional Police Officer with the Mercer County Corrections Center, received a Final Notice of Disciplinary Action imposing a 50-day suspension for failing to answer an officer’s calls for doors to be opened between pods because he was asleep. Jackson claimed that he did not hear the transmission because the radio was not at an appropriate listening level, as he had used the speakerphone and forgot to reset the volume. He appealed his suspension to the Commission and the appeal was transmitted to the Office of Administrative Law (OAL) as a contested case. The Administrative Law Judge (ALJ) found that the evidence supported the charges, and the 50-day suspension was appropriate. The Commission adopted the ALJ’s decision.

On appeal, the Appellate Division affirmed the Commission’s decision, as it found “the agency’s finding that petitioner was asleep [was] supported by substantial evidence in the record,” and it did “not consider the fifty-day suspension to be disproportionate because of public safety concerns.”
In the Matter of Anthony Villanueva,  
City of Trenton Police Department  
Docket No. A-4302-18T3  

Court affirmed In the Matter of Anthony Villanueva (CSC, decided May 9, 2019) in which the Commission upheld the removal of a Police Officer for improper use of force.

Anthony Villanueva, a former Police Officer with the City of Trenton, was removed for improper use of force against a detainee and his subsequent filing of a false report. Villanueva appealed his removal to the Commission and the matter was transmitted to the OAL as a contested case.

Based on a review of the video surveillance and other testimony, the ALJ recommended that the charges be sustained and that Villanueva’s removal be upheld. The Commission adopted the ALJ’s Initial Decision. On appeal, the Appellate Division affirmed the Commission’s decision, as there was “no basis for disturbing the Commission’s well-reasoned determination that Villanueva should be removed from employment as a [P]olice [O]fficer after he violated the UF [use of force] policy” by deploying Oleoresin Capsicum spray, which the Appellate Division noted is commonly known as pepper spray against a detainee who was secured in a detention cell. Concerning the appellant’s argument that the ALJ erred by not granting his request for an adverse inference against the City, the Appellate Division found the argument meritless since the officer who was not called to testify about the appellant’s report was not “peculiarly within the control or power of only the [City]” and could have been called by the appellant. The appellant also failed to establish that the officer could “elucidate relevant and critical facts in issue” or that her testimony would be “superior to that already utilized.” Regarding the appellant’s allegation that the Commission did not address the exceptions he filed, the Appellate Division rejected this argument since the Commission’s decision noted that the appellant’s exceptions were filed, and therefore, were part of the record that the Commission considered.

Application Tips and Techniques

The importance of filing a timely and accurate examination application cannot be overstated. The application is utilized to determine an applicant’s eligibility for an examination and may also serve as the actual test paper. With regard to the latter, the listed education and experience of an applicant are evaluated to establish the applicant’s ranking on the resulting eligible list. Moreover, applicants should be mindful of all requirements set forth in the examination announcement, including filing the application by the closing date and time. N.J.A.C. 4A:4-2.1(e) provides that unless otherwise provided for by the Chairperson of the Commission or designee, applications for open competitive and promotional examinations shall be submitted to the Commission no later than 4:00 p.m. on the announced application filing date.

In addition, applicants should be specific when describing their duties. Applicants should not merely copy the duties indicated in the Job Specification for their title. See e.g., In the Matter of Ryan Rosado, Sr. (CSC, decided February 12, 2020). Additionally, applicants must submit supporting documentation if required by the examination announcement.

Lastly, the applicable application filing fee must be remitted or proof of exemption from the fee must be demonstrated in order for the application to be processed. See e.g., In the Matter of Nichole Jones, Correctional Police Officer (S9988A) (CSC, decided January 15, 2020) and In the Matter of Elizabeth Parrish, Entry Level Law Enforcement Examination (S9999A) (CSC, decided January 15, 2020) (Commission addresses application processing fee exemptions for open competitive examination candidates.)

For additional guidance, please visit the Job Application - Tips and Techniques page on the Commission’s website.
COVID-19 Impact to Testing and Appointments

In 2020, during the wake of the COVID-19 pandemic, the Commission and its operating divisions temporarily stayed or altered operations to safely provide services to the Civil Service community. Beginning in March 2020, assembled examinations were postponed. However, make-up examinations resumed in the latter part of the year. As we entered 2021, the Commission continued to work to resume examination administration using the best secured measures and safety protocols for both candidates and staff.

The resumption of in-person examination administrations is already underway. Phase one of the resumption plan started with candidate notifications to appear for the Management Test Battery and Supervisory Test Battery examinations. Notices were sent to approximately 300 candidates who were scheduled for examination dates between March 16, 2021 and April 14, 2021. The first examinations were held on March 16, 2021 at the Department of Children and Families’ Training Facility in New Brunswick. Phase two will begin with “pencil/paper” written examinations starting on April 15, 2021 and will continue until all backlogged examinations have been scheduled. While Test Development* staff have continued to work on developing future examinations for various titles, a backlog of over 7,000 candidate examinations was created due to the COVID-19 outbreak. The Commission’s goal is to schedule and administer these examinations as soon as possible so that the backlog is eliminated.

It is noted that unassembled examinations, which evaluates a candidate’s education and/or experience based on an examination application, continued in 2020, although these too were impacted by the pandemic due to altered work schedules. Measures were also taken to ensure that public safety positions were being filled, notwithstanding the examination moratorium. As previously reported, the Commission waived the Fire Fighter Physical Performance Test (PPT) portion of the examination process for all appointing authorities desiring to make permanent appointments until the PPT could be administered safely. See In the Matter of Fire Fighter Physical Performance Test (CSC, decided September 30, 2020).

Moreover, the Commission has revived and extended public safety and non-public safety eligible lists to ensure permanent appointments may be made by appointing authorities during this time. For example, as set forth in Civil Service Commission Decisions, the Commission revived and extended 13 public safety eligible lists. See In the Matter of Promotional Lists for Public Safety Titles (CSC, decided March 24, 2021). Additionally, in In the Matter of Social Work Supervisor (PC2725V) (CSC, decided December 16, 2020), the Commission revived and extended the eligible list, granting the appointing authority’s continued request for an appointment waiver and deferring the assessment of selection costs. The appointing authority had indicated that due to the COVID-19 crisis, it could not move forward with an appointment in 2020. However, the appointing authority anticipated two retirements in 2021, and thus, appointments could be made to those positions at that time.

The Commission also created various unclassified titles to address the needs of the public and the appointing authorities due to the pandemic. As indicated in In the Matter of Interim Public Health Recovery Division, Department of Health, (CSC, decided August 19, 2020), the Department of Health received federal funding for 30 months to establish a new Epidemiology and Laboratory Capacity program, which was to be responsible for enhanced detection, response, surveillance, and prevention of COVID-19. The Commission approved temporary unclassified appointments to expedite the staffing of the program. See also In the Matter of COVID-19 Unclassified Titles (CSC, decided September 30, 2020).

As we recover from the pandemic, the Commission remains optimistic that testing will soon achieve normalcy.

* Effective January 2021, the Division of Test Development and Analytics changed its name to Test Development, Analytics and Administration (TDAA). The mission remains to design valid and objective testing instruments that ensure an equitable process for all Civil Service candidates in order to provide appointing authorities with employment lists of qualified candidates. Examination administration duties, including scheduling candidates and recruiting and training of examination proctors, have also been assigned to this division.

TDAA develops written, oral, and performance examinations for Civil Service agencies. There are approximately 3,700 competitive titles that could require an assembled examination. This is accomplished with the assistance of subject matter experts (those with in-depth knowledge of the targeted title/position/job) through the process of job analysis, creating examination content, analyzing examination results, and determining pass points. A job analysis determines the tasks performed, knowledge, skills and abilities needed to perform the job. The results of the job analysis are used to develop an examination design. The examination design determines the content of the examination, which can include multiple choice questions, job-related scenarios, and/or work simulations. Once the examination has been administered, the examination results are statistically analyzed, a pass point is determined, and an eligible list is produced. This is performed in accordance with the United States EEOC Uniform Guidelines on Employee Selection Procedures, ensuring the results are valid and fair to all protected groups. Appeals and objections are also considered.
The Commission’s Office of Diversity Programs and Employee Advisory Service (EAS) continue to hold events on virtual platforms in order to reach their respective audiences.

In an effort to promote careers in State and local government, the Office of Diversity Programs continues to host its series of Virtual Information Sessions tailored towards job seekers and college/university students around the State. The office will hold a number of these Virtual Information Sessions in the coming months for communities interested in working in State and local government. Students interested in attending the college/university sessions can register through their career services departments, while those interested in attending the recent graduate, LGBTQ+ pride, departmental or Hispanic heritage sessions can register at the respective links below:

- [https://www.surveymonkey.com/r/Spring2021RecentGraduates](https://www.surveymonkey.com/r/Spring2021RecentGraduates)
- [https://www.surveymonkey.com/r/CSCPride2021](https://www.surveymonkey.com/r/CSCPride2021)
- [https://www.surveymonkey.com/r/HispanicHeritageCSC2021](https://www.surveymonkey.com/r/HispanicHeritageCSC2021)
- [https://www.surveymonkey.com/r/DepartmentSeriesAttendees2021](https://www.surveymonkey.com/r/DepartmentSeriesAttendees2021)

EAS is slated to host two of its monthly webinar series on Tuesday, April 20, 2021. The webinar, titled *NJ EAS Employee Webinar: Emotional Intelligence at Work*, will discuss the steps necessary to building and maintaining a balanced emotional life at work to achieve greater levels of success. The second webinar, titled *NJ EAS Supervisor-Manager Webinar: Advanced Coaching Skills for Leaders*, will review the communication skills necessary to have effective coaching interactions. The webinar will also discuss using a collaborative coaching approach in key situations including assigning work, managing performance, solving problems, etc.

The Commission is committed to hosting events that positively impact the Civil Service workforce and job seekers across the Garden State.
Accessing Commission Decisions

The Commission’s website is located at https://nj.gov/csc, where you can find information regarding job announcements and examinations, employee programs, forms and publications, regulations and laws governing Civil Service, the Commission meeting agenda, and Commission decisions.

The full texts of decisions are available on-line for cases decided on or after July 16, 2014. To access the text of a decision, first use the search function for Search Minutes/Decisions (https://nj.gov/csc/about/meetings/search).

You can search by meeting date, appellant or appointing authority name, or keyword. When you retrieve the minutes for the meeting, look for the agenda item pertaining to your search. The decision can be accessed through a link in the item.

If you know the meeting date on which the appeal was decided, you can access the minutes directly through the Minutes of Previous Meetings page (https://nj.gov/csc/about/meetings/minutes/).

Click the meeting date, and a list of agenda items will appear. Minutes of meetings and associated decisions are posted after approval of the minutes, usually at the next scheduled meeting of the Commission.

Helpful Links

- Job Announcements and Testing
  www.nj.gov/csc/seekers/jobs/announcements
- Public Safety Testing News
- Division of Test Development, Analytics and Administration
  https://nj.gov/csc/about/divisions/selection/
- Division of Agency Services
  www.nj.gov/csc/about/divisions/slo/
- Division of EEO/AA
  https://www.state.nj.us/csc/about/divisions/eeo/index.html
- Employee Advisory Service
  https://www.state.nj.us/csc/employees/programs/advisory/eas.html
- Employee Advisory Service Publications
  https://www.nj.gov/csc/employees/programs/advisory/publications.html
- Center for Learning and Improving Performance (CLIP)
  www.nj.gov/csc/employees/training/index.html
- The Training Post Newsletter
  www.nj.gov/csc/employees/training/training_newsletter.html
- Issues of The Reporter
  https://nj.gov/csc/about/publications/merit/

If you have questions or comments regarding The Reporter, please email us at: TheReporter@csc.nj.gov. We welcome suggestions on topics or areas of interest you would like to see in upcoming issues of The Reporter.

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