

B-12



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Community Service
Worker, Bilingual in Spanish and
English (M0331P), Jersey City

Appointment Waiver

CSC Docket No. 2015-2777

ISSUED: NOV 06 2015 (JET)

Jersey City requests permission not to make an appointment from the August 20, 2012 certification for Community Service Worker, Bilingual in Spanish and English (M0331P), Jersey City.

The record reveals that the appointing authority provisionally appointed Anita Martinez, pending open competitive examination procedures, to the subject title, effective August 29, 2011. The examination was announced with a closing date of May 16, 2012. The resulting list of 7 eligibles promulgated on August 16, 2012 and expired on August 15, 2015. Martinez's name did not appear on the certification. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. A certification was issued on August 20, 2012 (OL121121) which contained the names of the 7 eligibles. The appointing authority returned the certification and indicated that it would not make a permanent appointment since Martinez was no longer serving in the title. It is noted that Martinez's provisional appointment was discontinued effective January 28, 2013. The appointing authority thereafter requested a waiver from the appointment requirement since the provisional was no longer serving in the title and the title will not be utilized due to a restructuring of an office.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. No further arguments were received.

A review of agency records reveals that there are currently no employees serving provisionally, pending open competitive examination procedures, in the subject title with Jersey City.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated due to Jersey City's provisional appointment of Anita Martinez to the subject title. However, after a complete certification was issued, the appointing authority requested cancellation of the certification due to a restructuring of an office and lack of use for the subject title. Consequently, since there is no provisional serving in the title at issue, there is sufficient justification for an appointment waiver.

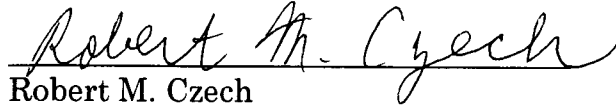
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. The fact that the appointing authority restructured an office and no longer has a use for the title is not a sufficient basis to waive the examination costs, particularly since it provisionally appointed an individual to the subject title, which generated the examination process. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that the request for a waiver of the appointment requirement be granted. Additionally, the Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 5th DAY OF NOVEMBER, 2015



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