



STATE OF NEW JERSEY

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

In the Matter of Senior Public Works
Repairer (M0035S), Point Pleasant
Borough

Appointment Waiver

CSC Docket No. 2017-3780

ISSUED: OCTOBER 12, 2017 (CSM)

Point Pleasant requests permission not to make an appointment from the June 5, 2014 certification for Senior Public Works Repairer (M0035S).

The record reveals that Point Pleasant provisionally appointed Clinton Griggs, pending open competitive examination procedures to the title subject title, effective January 1, 2012. An examination was announced with a closing date of January 9, 2014 that resulted in a list of 6 eligibles with an expiration date of May 28, 2017.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because Griggs was erroneously appointed provisionally pending open competitive examination procedures when in fact he should have been appointed provisionally pending promotional examination procedures. It explained that the subject open competitive should have never been announced and that it has no record of any individual on the list indicating interest in an appointment. On May 30, 2017, the new Administrator for the appointing authority indicated that he discovered this error and had Griggs' records corrected.¹ 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. *See N.J.A.C. 4A:10-2.2(a)1.*

¹ In *In the Matter of Senior Public Works Repairer (M0035S), Point Pleasant* (CSC, decided October 19, 2016), the Civil Service Commission (Commission) issued a salary disapproval order against Griggs' position and assessed compliance costs against the appointing authority for not returning the subject certification.

It is noted that Griggs' County and Municipal Personnel System (CAMPS) record indicates that he was permanently appointed as a Public Worker Repairer via promotional examination procedures effective July 1, 2010. As such, since he was permanently serving in the next-lower in-series title, his provisional appointment to the next higher in-series title should have been recorded as provisional, pending promotional examination procedures.

A review of agency records indicates that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority. Additionally, agency records indicate that Griggs' CAMPS record has been corrected to reflect that his provisional appointment, pending promotional examination procedures, effective January 1, 2012.

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 as the result of the provisional appointment of Griggs to the subject title. However, due to an administrative oversight, Griggs' appointment was recorded as provisional, pending open competitive examination procedures instead of provisional, pending promotional examination procedures. After a complete certification was issued, on May 30, 2017, the appointing authority requested an appointment waiver, explaining that it discovered the oversight in Griggs' appointment type and worked with this agency to correct the error. Therefore, since Griggs should have been provisionally appointed pending promotional examination procedures and there are no employees serving provisionally pending open competitive procedures in the subject title, there is a 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 for 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. However, after contacting this agency, it was determined that Griggs' should have been provisionally promoted pending promotional procedures to the subject title instead of provisionally appointed pending open competitive procedures. Consequently, the subject open competitive examination appears to have been announced in error. Therefore, based on the forgoing, it is appropriate that the appointing authority not be assessed costs for the selection process and the Commission's October 19, 2016 order assessing compliance costs is vacated.

ORDER

Therefore, it is ordered that the request for a waiver of the appointment requirement be granted and no selection costs be assessed.

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 4TH DAY OF OCTOBER , 2017



Robert M. Czede, Chairperson
Civil Service Commission

Inquiries	Christopher S. Myers
and	Director
Correspondence	Division of Appeals and Regulatory Affairs Civil Service Commission Written Record Appeals Unit P.O. Box 312 Trenton, New Jersey 08625-0312

c: Frank Pannucci, Jr.
Clinton Griggs
Kelly Glenn
Beth Wood
Records Center