



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Supervisor Food
Service (M0067U), Jersey City School
District

Appointment Waiver

CSC Docket No. 2017-3563

ISSUED: NOV - 2 2017 (AMR)

Jersey City School District requests permission not to make an appointment from the December 21, 2016 certification for Supervisor Food Service (M0067U).

The record reveals that Jersey City School District provisionally appointed Barbarito Ramos, pending open competitive examination procedures to the subject title, effective January 9, 2009. An examination was announced with a closing date of February 9, 2016 that resulted in a list of 23 eligibles with an expiration date of September 7, 2019. It is noted that Ramos is no longer serving as a Supervisor Food Service and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. Specifically, it explained that the District is facing a financial deficit for the current school year. As a result of this deficit, the District has had to implement cost-saving measures, specifically restructuring the staffing of many its departments. Consequently, many positions and vacancies in the District have been or will be subject to evaluation including the Supervisor Food Service position.

With the District's restructuring, they will continue to have two full time Supervisors of Food Service (as opposed to 3) thereby eliminating the position noted in the certification of issue (OL161442). The District will also continue to maintain three Cafeteria Managers. By eliminating the Supervisor Food Service position, the

District intends to save over \$100,000 annually, which is a critical cost saving measure that will help alleviate the District's financial situation.

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. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

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 a result of the provisional appointment of Barbarito Ramos, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that it is facing a financial deficit and many positions and vacancies in the district have been re-evaluated or eliminated. In conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

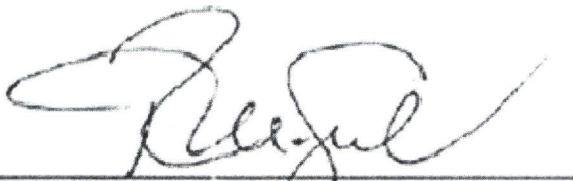
Although an appointment waiver is granted in this matter, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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. In this case, the appointing authority's determination that it could reorganize its functions without the need of appointing a Supervisor Food Service after it requested an examination for the subject title does not provide a basis on which to waive the selection costs. 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 a waiver of the appointment requirement be granted. Additionally, the Civil Service 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 1ST DAY OF NOVEMBER, 2017



Robert M. Czedo, Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Celeste Williams
Kelly Glenn
Beth Wood