



B-28

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Security Guard
(M0945R), Vineland School District

Appointment Waiver

CSC Docket No. 2015-751

ISSUED: **AUG 03 2015** (HS)

Vineland School District requests permission not to make an appointment from the June 5, 2014 certification for Security Guard (M0945R).

The record reveals that the appointing authority initially requested an eligible list in order to fill three vacancies for the title of Security Guard. As a result, an examination for the title was announced with a closing date of November 5, 2013. Fifty-eight applicants were admitted to the examination which was held on March 20, 2014. The resulting eligible list of 36 names promulgated on April 24, 2014 and expires on April 23, 2017. On June 5, 2014, the names of 15 eligibles were certified from the eligible list. At the time of the certification, six employees were serving provisionally in the subject title. The appointing authority returned the certification indicating that no appointments would be made. Specifically, it noted that it was experiencing budgetary constraints and ongoing layoffs and that there were no longer any individuals serving provisionally in the subject title. Therefore, the appointing authority requested an appointment waiver.

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. In response, the appointing authority submitted a check in the amount of \$2,048. However, it submitted no additional arguments.¹

¹ Subsequently, the title of Security Guard was reallocated from the competitive division of the career service to the non-competitive division of the career service. *See In the Matter of Reallocation*

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 for a list 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 appointing authority's request for an eligible list to fill three vacancies. After a complete certification was issued, the appointing authority requested an appointment waiver due to fiscal difficulties. While the record is unclear as to the particular individuals who received provisional appointments to the subject title, the title of Security Guard has since been reallocated from the competitive to the non-competitive division of the career service. Accordingly, based on the foregoing circumstances, there is sufficient justification for an appointment waiver.

Although the appointing authority's petition for a waiver is granted, 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, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, although valid reasons exist for not making an appointment from the subject eligible list, the appointing authority has failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list. Moreover, the appointing authority submitted a check in the amount of \$2,048 for the costs of the selection process. Therefore, since the appointing authority has conceded that it is responsible for those costs, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

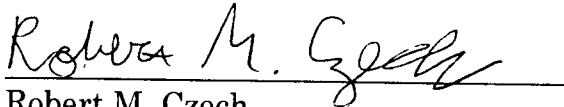
Therefore, it is ordered that the request for the waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that

of Security Guard and Security Guard (Bilingual in Spanish and English) from the Competitive to the Non-Competitive Division of the Career Service (CSC, decided December 3, 2014).

Vineland School District be assessed for the costs of the selection process but notes that the costs have already been remitted.

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 29TH DAY OF JULY, 2015



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