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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Program
Development Specialist, Youth
Services (C0674S), Union County

Appointment Waiver Request

CSC Docket No. 2015-3138

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

Union County requests permission not to make an appointment from the December 22, 2014 certification for Program Development Specialist, Youth Services (C0674S).

The record reveals that the appointing authority provisionally appointed Norma Nunez, pending open-competitive examination procedures to the title of Program Development Specialist, Youth Services, effective June 7, 2014. As a result of the provisional appointment, an examination was announced with a closing date of August 28, 2014. The resulting eligible list of eight names promulgated on December 18, 2014 and expires on December 17, 2017. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On December 22, 2014, the names of eight eligibles were certified from the subject eligible list. The appointing authority returned the certification and requested an appointment waiver as it was unable to make an appointment due to office restructuring. Specifically, the appointing authority asserted that it made improvements to its service delivery system, which resulted in changed staffing responsibilities to address a new approach toward addressing community needs. As such, it no longer had a use for the subject title.

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.

Agency records reveal that Nunez was appointed to the non-competitive title of Community Service Worker, effective January 1, 2015. Personnel records further reveal that there are no employees in the subject title serving provisionally, pending an open competitive examination, with the appointing authority.

A review of the job specification for Community Service Worker reveals that an individual in that title performs field and office work to promote local community resource programs designed to meet the needs of residents. A review of the job specification for Program Development Specialist, Youth Services reveals that an individual in that title performs the moderately complex tasks involved in preparing plans for the development, promotion, and implementation of programs to meet the social needs of juvenile delinquents.

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 title of Program Development Specialist, Youth Services was generated as a result of the provisional appointment of Nunez. After a complete certification was issued, the appointing authority indicated that Nunez was appointed to the non-competitive title of Community Service Worker. A review of the job specification reveals that the title of Program Development Specialist, Youth Services performs significantly different duties than an individual in the title of Community Service Worker. Accordingly, based on the foregoing, the appointing authority has presented sufficient justification for the appointment waiver.

Although the appointment 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

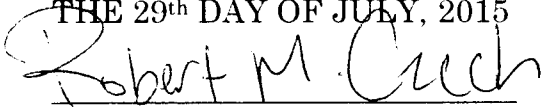
instant matter, Nunez was still serving provisionally at the time of certification. Thus, although the request for a waiver is granted, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver 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 decision.

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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