



STATE OF NEW JERSEY

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

In the Matter of Reallocation of
Financial Examiner and Insurance
Examiner Title Series

Title Reallocation

CSC Docket Nos. 2021-656 and
2021-657

ISSUED: JANUARY 22, 2021 (DASV)

The Division of Agency Services (Agency Services) requests the reallocation of titles in the title series of Financial Examiner and Insurance Examiner to the noncompetitive division of the career service on an interim basis for six months and after exhaustion of existing eligible lists.

By way of background, the instant request originated with the Department of Banking and Insurance (DOBI), which requested that the following competitive titles be reallocated to the noncompetitive division of the career service for one year and thereafter on a permanent basis: Financial Examiner 1, Financial Examiner 2, Financial Examiner 3, Financial Examiner 4, Managing Examiner, Insurance Examiner 1, Insurance Examiner 2, Insurance Examiner 3, and Supervising Insurance Examiner. DOBI indicated that the Financial Examiner title series is used by its Division of Banking and the Insurance Examiner title series is used by its Division of Insurance. Both divisions must meet national accreditation criteria on a periodic basis with an immediate need in the 2021 calendar year. Specifically, DOBI stated that the Division of Banking undergoes an accrediting process conducted by the Conference of State Bank Supervisors (CSBS), whereby it must satisfy CSBS standards and criteria. In particular, DOBI needs a sufficient number of trained Financial Examiners at all levels to rate a bank's risk in Capital, Assets, Management, Earnings, Liquidity and Sensitivity to Market Rates and to provide effective corrective procedures. As such, DOBI needs to immediately appoint highly skilled and experienced professionals as CSBS will be returning to DOBI in 2021 to conduct a follow-up accreditation review. DOBI noted that, in the past year, the Division of Banking has lost approximately 30% of its examiners due to attrition. Regarding the Division of Insurance's Office of Solvency Regulation (OSR), DOBI

indicated that it also undergoes an accreditation process under the National Association of Insurance Commissioners. The standards require DOBI to have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs, and that it has the necessary resources to carry out that authority, which includes qualified examination and analysis staff and supervisory level staff in the Insurance Examiner title series. The next accreditation review is scheduled for July 2021. Moreover, DOBI noted that both the Financial Examiner and Insurance Examiner title series are used solely in its department, and thus, it is unable to appoint qualified candidates from other State departments. Additionally, although the Financial Examiner Trainee and the Insurance Examiner Trainee titles are noncompetitive, DOBI stated that positions in these titles cannot independently conduct financial and insurance examinations or the required review work for consultants. DOBI also submitted that layoffs could occur if accreditation is lost. Therefore, considering the impact of not meeting the accreditation standards in 2021 and to avoid potential adverse consequences to the banking and insurance industry, DOBI's existing workforce, and to New Jersey consumers, DOBI requested that the subject titles be reallocated to the noncompetitive division of the career service so that it may immediately appoint qualified and experienced staff.

It is noted that promotional announcements have been issued with a closing date of January 21, 2021 for Financial Examiner 3 (PS4368L), Financial Examiner 4 (PS4367L), Managing Examiner (PS4366L), Financial Examiner 2 (PS4365L), Financial Examiner 3 (PS4364L), Financial Examiner 4 (PS4364L), Managing Examiner (PS4362L), Insurance Examiner 2 (PS4361L), Insurance Examiner 1 (PS4360L), and Supervising Insurance Examiner (PS4359L). Additionally, there are existing eligible lists for Financial Examiner 2, DOBI (PS3572L has four active names on the list which does not expire until October 14, 2023) and Insurance Examiner 1, DOBI (PS6503L has three active names on the list which does not expire until May 15, 2022).

Based upon the foregoing, Agency Services supports reallocating the subject titles to the noncompetitive division on an interim basis for six months upon exhaustion of the above noted current promotional eligible lists and exhaustion of the promotional eligible lists issued as a result of the above noted promotional announcements. Furthermore, Agency Services notes that it has recommended to DOBI that it must commit to training existing staff to better position itself to avoid this situation in the future.

It is noted that pursuant to *N.J.A.C. 4A:3-1.2*, Agency Services notified the Communications Workers of America (CWA) and the International Brotherhood of Electrical Workers (IBEW) of DOBI's request to place the subject titles in the noncompetitive division on an interim basis. It informed the unions that DOBI had made the request to enable DOBI to properly staff its programs to ensure its re-

accreditation was not in jeopardy. Agency Services also provided the unions with DOBI's specific request.

The IBEW advised Agency Services that it does not oppose reallocation of the Managing Examiner title. However, the CWA indicated that while it generally opposes an entire title series being moved to the noncompetitive service, even on an interim basis, in accordance with an agreement with DOBI, it will support this request. In pertinent part, the agreement provides that reallocation to the noncompetitive division shall only occur after all the existing complete and incomplete promotional lists and any complete or incomplete eligible list issued as a result of the above noted promotional announcements are exhausted. DOBI and the CWA also agreed that the reallocation to the noncompetitive division would be for an initial period of six months, but that if additional appointments are needed after that time frame, DOBI will petition the Civil Service Commission (Commission) to extend the noncompetitive designation for an additional six months.

CONCLUSION

N.J.A.C. 4A:3-1.2(c) provides that a job title may be placed in the noncompetitive division on an ongoing or interim basis when it is determined that it is appropriate to make permanent appointments to the title, and that one or more of the following criteria are met:

1. Competitive testing is not practicable due to the nature of the knowledge, skills and abilities associated with the job;
2. Certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems and working conditions; or
3. There is a need for immediate appointments arising from a new legislative program or major agency reorganization.

Based on the record in this matter, interim noncompetitive status for the subject titles is appropriate. While the Commission is cognizant of and strongly agrees with the concerns expressed by the CWA concerning wholesale title series reallocations, considering the impact of not meeting the accreditation standards in 2021 and to avoid potential adverse consequences to the banking and insurance industry, DOBI's existing workforce, and to New Jersey consumers, it is necessary, under these limited circumstances, that the subject titles be reallocated to the noncompetitive division of the career service on an interim basis ***after exhausting of the existing promotional lists and exhaustion of the promotional lists issued as a result of the above noted promotional announcements***, so that it

may appoint qualified and experienced staff. It is noted that the State has agreed in a Memorandum of Agreement with the CWA that its members would not be subjected to layoffs up to December 31, 2021. Thus, if the services of the impacted units cannot be performed, the State will still be required to retain the impacted employees if the appointing authority is unable to reassign them.

However, because there are existing eligible lists for Financial Examiner 2 (PS3572L), DOBI, and Insurance Examiner 1 (PS6503L), DOBI, as well as the promotional lists to be issued as a result of the above noted promotional announcements, it is not appropriate for such action to take effect until these lists are exhausted. In other words, noncompetitive appointments shall not be made until ***after the effective date of promotional eligibles appointed from the above noted promotional lists or promotional lists issued as a result of the earlier noted promotional announcements.*** Regarding the time frame of the noncompetitive designation, the Commission accepts the recommendation of Agency Services that the interim noncompetitive time period should only be six months after exhaustion of the lists, but that DOBI may petition the Commission to extend the noncompetitive designation if it is unable to fill all of its vacancies during the initial six-month time frame. Additionally, consistent with Agency Services' recommendation, the Commission directs DOBI to train existing staff at once and take the appropriate steps to ensure that higher level positions in these series have been filled at the necessary staffing levels required for future re-accreditation utilizing the required promotional procedures so that it is not necessary to consider a reallocation request for these title series in the future. If DOBI is unable to commit to training existing staff, the Commission will not permit the interim reallocation of these titles. Lastly, the Commission notes that, with interim noncompetitive status that will follow, *N.J.A.C.* 4A:3-1.2(g) provides that, at the end of the interim noncompetitive period, the job title shall be redesignated as competitive. Individuals appointed during the interim noncompetitive period shall, upon successful completion of their working test periods, attain permanent status in the competitive division.

ORDER

Therefore, it is ordered that this request be granted and interim noncompetitive designations for the subject titles be effective upon exhaustion of the existing eligible promotional lists and the exhaustion of the promotional lists issued as a result of the promotional announcements noted in this decision. The noncompetitive designation will be for a period of six months after the date of exhaustion of existing promotional lists and the promotional lists issued as a result of the promotional announcements noted in this decision. At the end of this period, unless further extended by the Commission, the subject titles will be returned to the competitive division of the career service.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20^H DAY OF JANUARY 2021

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