

CSC  
B-10



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Administrative  
Analyst 1 (PS8077K), Department of  
Children and Families

Appointment Waiver Request

CSC Docket No. 2015-2110

ISSUED: **DEC 17 2015** (BS)

The Department of Children and Families (DCF) requests permission not to make an appointment from the certification for Administrative Analyst 1 (PS8077K), DCF.

The record reveals that the appointing authority provisionally appointed Aileen Journett, pending promotional examination procedures, to the title of Administrative Analyst 1, effective February 9, 2013. The provisional appointment generated an examination announcement for the subject title with a closing date of May 21, 2013. Twenty-three applicants were admitted to the Supervisory Test Battery examination which was held on January 14, 2014. The resulting eligible list of eight names promulgated on April 3, 2014 and expires on April 2, 2016. Journett was the eighth-ranked non-veteran eligible. 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 October 16, 2014, the names of seven eligibles, including Journett, were certified (PS141353) to the appointing authority from the eligible list. The appointing authority returned the certification requesting cancellation of the certification since Journett was returned to her permanent title, Supervising Family Service Specialist 1, effective November 29, 2014.

Thereafter, the appointing authority requested an appointment waiver. The appointing authority's request 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 \$8,285. The appointing authority argues that it should be granted an

appointment waiver since Journett was returned to her permanent title. Moreover, it asserts that any "enforcement proceedings" should be held in abeyance as DCF anticipates utilizing the subject list prior to the April 2, 2016 expiration date.

Civil Service Commission records indicate that there are no employees currently serving provisionally in the subject title at DCF.

### 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 provisional appointment of Aileen Journett. After a complete certification was issued, the appointing authority requested an appointment waiver. It indicated that Journett was returned to her permanent title, Supervising Family Service Specialist 1. Further, records reveal that there are currently no employees serving provisionally in the subject title at DCF. 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. However, the Civil Service Commission notes that the subject eligible list does not expire until April 2, 2016. Moreover, the appointing authority indicated that it anticipates using the subject promotional eligible list prior to its April 2, 2016 expiration date. Thus, utilization by the appointing authority is still a possibility. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. *See e.g., In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided March 22, 2006) (Not appropriate to assess the Department of Corrections for the costs of the selection process since it had indicated its intention to utilize the eligible list prior to its expiration date).

Nevertheless, in the event that the appointing authority fails to utilize the list by its expiration date, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made. *See e.g., In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections (MSB, decided April 11, 2007)* (Costs assessed upon the expiration of the eligible list since the Department of Corrections failed to utilize the eligible list and there was no evidence that it had even attempted to utilize the eligible list).

**ORDER**

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs be presently 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 16TH DAY OF DECEMBER, 2015



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and  
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At the meeting, the minutes were read and approved. The committee reported on the progress of the project and discussed the budget. A motion was made to accept the report and the budget, which was seconded and carried. The meeting adjourned at 10:00 PM.

### AGENDA

1. Call to Order  
2. Reading of Minutes  
3. Report of the Treasurer  
4. Report of the Secretary  
5. Discussion of the Budget  
6. Motion to Accept the Report and Budget  
7. Adjourn

### REPORT OF THE TREASURER

The Treasurer reported that the total income for the year was \$1,200.00 and the total expenses were \$800.00. The surplus was \$400.00. The Treasurer also reported on the status of the various funds and the amount of money in each.

The Secretary reported that the minutes of the previous meeting were read and approved. The Secretary also reported on the progress of the project and discussed the budget. A motion was made to accept the report and the budget, which was seconded and carried. The meeting adjourned at 10:00 PM.