

announcement or prior to its administration. See *N.J.A.C.* 4A:10-2.2(a)1. The appointing authority also requested an appointment waiver indicating that the position no longer existed due to the closing of the Juvenile Detention Facility. On September 29, 2015, the Division of Appeals and Regulatory Affairs acknowledged Hudson County's request for a waiver in the above matter. Moreover, the appointing authority was advised that if an appointment waiver was granted, it could be assessed for the costs of the selection process in the amount of \$2,048 and that it could submit within 20 days from the receipt of this notice reasons why costs of the selection process should not be assessed. The appointing authority, despite being provided the opportunity, did not respond.

A review of agency records indicates that there are no other employees recorded as serving provisionally pending open competitive examination procedures in the subject title with Hudson County.

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 the result of nine provisional appointments to the subject title. However, after a complete certification was issued, the appointing authority returned the certification and indicated that all the provisionals were removed from the subject title due to the closing of the Juvenile Detention Facility. Consequently, since there is no provisional serving in the title at issue, there is sufficient justification for an appointment waiver.

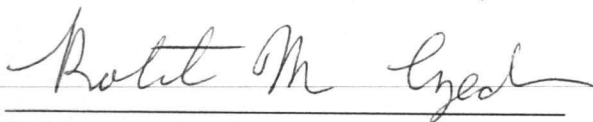
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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 regard, the removal of the provisionals is insufficient to support a waiver of the costs of the selection process. 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 16th DAY OF DECEMBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Elinor Gibney
Kenneth Connolly
Joseph Gambino
Beth Wood

TABLE

CHAPTER I. THE CONSTITUTIONAL HISTORY OF THE UNITED STATES. I. THE COLONIAL PERIOD. II. THE REVOLUTIONARY PERIOD. III. THE FEDERAL PERIOD. IV. THE CONSTITUTIONAL PERIOD. V. THE RECONSTRUCTION PERIOD. VI. THE MODERN PERIOD.

CHAPTER II. THE CONSTITUTIONAL HISTORY OF THE UNITED STATES. I. THE COLONIAL PERIOD. II. THE REVOLUTIONARY PERIOD. III. THE FEDERAL PERIOD. IV. THE CONSTITUTIONAL PERIOD. V. THE RECONSTRUCTION PERIOD. VI. THE MODERN PERIOD.

CHAPTER III. THE CONSTITUTIONAL HISTORY OF THE UNITED STATES. I. THE COLONIAL PERIOD. II. THE REVOLUTIONARY PERIOD. III. THE FEDERAL PERIOD. IV. THE CONSTITUTIONAL PERIOD. V. THE RECONSTRUCTION PERIOD. VI. THE MODERN PERIOD.

CHAPTER IV. THE CONSTITUTIONAL HISTORY OF THE UNITED STATES. I. THE COLONIAL PERIOD. II. THE REVOLUTIONARY PERIOD. III. THE FEDERAL PERIOD. IV. THE CONSTITUTIONAL PERIOD. V. THE RECONSTRUCTION PERIOD. VI. THE MODERN PERIOD.

CHAPTER V. THE CONSTITUTIONAL HISTORY OF THE UNITED STATES. I. THE COLONIAL PERIOD. II. THE REVOLUTIONARY PERIOD. III. THE FEDERAL PERIOD. IV. THE CONSTITUTIONAL PERIOD. V. THE RECONSTRUCTION PERIOD. VI. THE MODERN PERIOD.

CHAPTER VI. THE CONSTITUTIONAL HISTORY OF THE UNITED STATES. I. THE COLONIAL PERIOD. II. THE REVOLUTIONARY PERIOD. III. THE FEDERAL PERIOD. IV. THE CONSTITUTIONAL PERIOD. V. THE RECONSTRUCTION PERIOD. VI. THE MODERN PERIOD.