



**STATE OF NEW JERSEY**

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

In the Matter of Fire Protection  
Subcode Official (M0160V), Township  
of Parsippany-Troy Hills

Appointment Waiver

CSC Docket No. 2018-2081

**ISSUED: April 6, 2018** (AMR)

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The Township of Parsippany-Troy Hills, represented by Stephen E. Trimboli, Esq., requests permission not to make an appointment from the June 26, 2017 certification for Fire Protection Subcode Official (M0160V).

The record reveals that the Township of Parsippany-Troy Hills provisionally appointed Robert Westenberger to the title of Fire Protection Subcode Official, pending open competitive examination procedures, effective October 1, 2016. An examination was announced erroneously for the title of Fire Protection Subcode Official with a closing date of March 8, 2017 that resulted in a list of four eligibles with an expiration date of June 21, 2020. It is noted that Westenberger is no longer serving in the title of Fire Protection Subcode Official and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority. Rather, a review of agency records indicate that the appointing authority inadvertently recorded Westenberger's appointment in the County And Municipal Personnel System (CAMPS) to the title of Fire Protection Subcode Official, but intended to record it as Fire Protection Inspector. Westenberger's CAMPS record has been corrected to reflect his provisional appointment as Fire Protection Inspector, effective October 1, 2016.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was not serving in the subject title. Specifically, it explained that Westenberger's title was incorrectly recorded as a Fire Protection Subcode Official in CAMPS, and therefore, the examination was announced incorrectly. Moreover, all other personnel documentation reflects his correct title as Fire

Protection Inspector. The appointing authority also asserts that the designated duties of a Fire Protection Subcode Official are being sufficiently performed by the township's Assistant Construction Official. They do indicate, however, that they plan to utilize the title within the next three years.

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. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

### 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 a result of the appointing authority's inadvertent recording of Westenberger's provisional appointment in CAMPS as Fire Protection Subcode Official. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that due to the error in recording Westenberger's title, and the fact that the duties of the subject title are being performed by the Assistant Construction Official, the Fire Protection Subcode Official position was not warranted. In conjunction with the fact that there are no provisionals currently serving, there is a 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 case, the appointing authority's determination that it does not need to maintain the position of Fire Protection Subcode Official after it requested an examination for the subject title does not provide a basis on which to waive the selection costs. However, it has indicated that it plans to utilize the title within the next three years. Therefore, the matter of the assessment of the selection costs will

be reviewed should the appointing authority not utilize the list prior to its expiration.

**ORDER**

Therefore, it is ordered that a waiver of the appointment requirement be granted, but no selection costs be assessed at this time.

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 4<sup>th</sup> DAY OF APRIL , 2018



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