



**STATE OF NEW JERSEY**

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

In the Matter of Early Childhood  
Specialist (C0068W), Bergen County

Appointment Waiver

CSC Docket No. 2019-2882

**ISSUED: JUNE 28, 2019 (JET)**

Bergen County requests permission not to make an appointment from the OL181021 certification for Early Childhood Specialist (C0068W), Bergen County.

The record reveals that the appointing authority provisionally appointed Kevin Wallace effective October 8, 2014, Lina Ocampo effective February 6, 2017, Lauren Mulawka effective June 12, 2017, and Paulina Sobilo effective August 1, 2017, pending open competitive examination procedures, to the subject title. The C0068W examination was announced with a closing date of January 22, 2018. The resulting list of seven eligibles promulgated on September 27, 2018 and will expire on September 26, 2021. A certification was issued on September 28, 2018 that contained the names of eight eligibles (OL181021), which included one eligible from a previously unexpired list. Wallace's, Ocampo's, Mulawka's, and Sobilo's names did not appear on the list. Wallace's, Ocampo's, Mulawka's, and Sobilo's provisional appointments were discontinued effective January 1, 2019 as they were appointed as Community Service Workers. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration.

By letter dated May 3, 2019, the appointing authority requested an appointment waiver. It explained that the provisionals were removed as they were incorrectly appointed to the subject title. However, it requested that no costs be assessed as it still plans to use the C0068W list.

A review of agency records reveals that there are currently no employees serving provisionally in the subject title with Bergen 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 due to the appointing authority's appointment of a provisional employee to the subject title. However, after the OL181021 certification was issued, the appointing authority moved the provisional appointees. As there is no longer a provisional appointee serving in the subject title, 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 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. However, the appointing authority indicates that it may utilize the list prior to its expiration date of September 26, 2021. Accordingly, under these particular circumstances, it would not be appropriate to assess the appointing authority the costs of the selection process at this time. Nevertheless, in the event that the appointing authority fails to utilize the list by its expiration date of September 26, 2021, this matter can be reviewed to ascertain whether an assessment of costs of the selection process should be made.

## ORDER

Therefore, it is ordered that the request for a waiver of the appointment requirement be granted and no selection costs presently be 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 26<sup>th</sup> DAY OF JUNE, 2019



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