



**STATE OF NEW JERSEY**

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

In the Matter of Fiscal Analyst  
(C0920U), Bergen County

Appointment Waiver

CSC Docket No. 2019-2686

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

Bergen County requests permission not to make an appointment from the OL170498 certification for Fiscal Analyst (C0920U), Bergen County.

The record reveals that the appointing authority provisionally appointed Brian Schneider and Matthew Cerullo, pending open competitive examination procedures, to the subject title, effective November 16, 2015 for Schneider and November 1, 2016 for Cerullo. The C0920U examination was announced with a closing date of April 5, 2017. The resulting list of eight eligibles promulgated on April 20, 2017 and will expire on April 19, 2020. A certification was issued on April 24, 2017 that contained the names of eight eligibles (OL170498). Schneider and Cerullo's names appeared on the list. Schneider's provisional appointment was discontinued effective December 18, 2017 as he is no longer employed in local service. Cerullo's provisional appointment was discontinued as he was appointed as an Account Clerk.<sup>1</sup> 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 April 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 C0920U list.

<sup>1</sup> Cerullo's provisional appointment was discontinued as a result of a Salary Disapproval decision issued by the Civil Service Commission (Commission). See *in the Matter of Nine Various Lists, Bergen County* (CSC, decided December 5, 2018).

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 OL170498 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 April 19, 2020. 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 April 19, 2020, 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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