



STATE OF NEW JERSEY

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

In the Matter of Director of Social
Work Services (PC0401V), Essex
County

Salary Disapproval

CSC Docket No. 2019-726

ISSUED: APRIL 17, 2020 (SLD)

The appointing authority’s failure to dispose of the certification for Director of Social Work Services (PC0401V), Essex County, while a provisional is serving in the title, has been referred to the Civil Service Commission (Commission) for enforcement.

The Commission has reviewed the salary disapproval issued against the salary of Sean Buehler and has made the following findings of fact:

1. Buehler is currently serving provisionally in the title of Director of Social Work Services.
2. There is a vacancy for the title of Director of Social Work Services and an outstanding certification¹ was issued on September 5, 2017 from the PC0401V eligible list.
3. The certification has not been properly disposed of and the appointing authority was advised of the required date of disposition.

¹ The certification contains two names tied at rank one, including Buehler’s name. *N.J.S.A.* 11A:4-8 and *N.J.A.C.* 4A:4-4.2(c)2ii provide that when fewer than three interested eligibles are certified and a provisional currently serving in the title is listed on the certification, the appointing authority may either make a permanent appointment or vacate the position/title.

4. The Certification Manager issued a Notice of Salary Disapproval to the appointing authority and afforded it an opportunity to appeal such action to the Commission.
5. No such appeal was taken, and no proper disposition of the certification was received; the salary disapproval, therefore, became a final administrative action.
6. By not properly disposing of this certification, the appointing authority is in violation of Civil Service law and rules.

In the instant matter, the appointing authority has refused to properly dispose of the certification issued to fill the vacancy occupied by a provisional employee. The appointing authority has not contested or appealed the findings of the Certification Manager. The payment of salaries for which there is a disapproval is illegal and contravenes Civil Service law and rules.

The appointing authority, despite being given the opportunity, did not submit any arguments or documentation for the Commission's review.

ORDER

The Civil Service Commission orders the appointing authority to immediately dispose of the outstanding certification by either vacating the position or permanently appointing Buehler. *See N.J.S.A. 11A:4-8 and N.J.A.C. 4A:4-4.2(c)2ii.* Such disposition must be filed with the Certification Manager on or before thirty (30) days from the issuance of this order. If no proper disposition is made within this time period, the Civil Service Commission orders the constructive appointment of Townsend. *See N.J.A.C. 4A:10-2.1(a)3; In the Matter of Battalion Fire Chief (PM1640E), Deputy Fire Chief (PM1423H), Atlantic City, Docket No. A-229-87T7 (App. Div. December 8, 1988).*

The Civil Service Commission further orders that the costs incurred in the compliance process be assessed against the appointing authority in the amount of \$1,000, pursuant to *N.J.S.A. 11A:10-3 and N.J.A.C. 4A:10-3.2(a)5*, to be remitted within 30 days of the issuance of this order. In the event the appointing authority fails to make a good faith effort to fully comply with this order within this time frame, it is additionally ordered that fines be assessed in the amount of \$100 per day, beginning on the 31ST day following the issuance of this order and continuing each day of continued violation, up to a maximum of \$10,000. *See N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2; In the Matter of Fiscal Analyst (M1351H), Jersey City, Docket No. A-4347-87T3 (App. Div. February 2, 1989).*

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 15TH DAY OF APRIL, 2020

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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