



STATE OF NEW JERSEY

In the Matter of Sheriff's
Investigator, Union County Sheriff's
Office

**FINAL ADMINISTRATIVE ACTION
OF THE CHAIR/
CHIEF EXECUTIVE OFFICER
CIVIL SERVICE COMMISSION**

CSC Docket No. 2023-1685

Administrative Appeal

ISSUED: February 27, 2023 (ABR)

The Union County Sheriff's Office appeals the determination of the Division of Agency Services (Agency Services), which found that Sheriff's Investigator incumbents over the age of 35 were ineligible for appointments to the title of Sheriff's Officer pursuant to *N.J.S.A. 11A:4-1.3g*.

By way of background, the appointing authority, in accordance with *N.J.S.A. 11A:4-1.3g*, sought to transfer 11 incumbents serving in the title of Sheriff's Investigator to Sheriff's Officer positions within the appointing authority. *N.J.S.A. 11A:4-1.3* would exempt these employees from the requirement to take an examination for the entry-level title of Sheriff's Officer. However, Agency Services found that *N.J.S.A. 11A:4-1.3g*, did not permit incumbent Sheriff's Investigators over the age of 35 to be transferred to the title of Sheriff's Officer, based upon the requirement in *N.J.S.A. 11A:4-1.3g(2)* that "the sheriff's investigator is not over 35 years of age at the time of initial appointment in accordance with this section to the sheriff's officer position."

On appeal, the appointing authority states that approximately half of its Sheriff's Investigators were over the age of 35 as of November 21, 2022, and it argues that the "initial appointment" language in *N.J.S.A. 11A:4-1.3g(2)* was intended to refer to the age which an incumbent was appointed to the title of Sheriff's Investigator, not their age at the time of transfer to the title of Sheriff's Officer. In support of its argument, the appointing authority presents that due to a concurrent closure of County Correctional Facilities, a number of amendments were made to

Titles 11A, 40 and 52 of the New Jersey Statutes in 2021, with the purpose of facilitating lateral movements between various law enforcement titles. The appointing authority contends that the legislative intent behind these enactments was to facilitate the movement of County Correctional Police Officers facing layoffs into the Sheriff's Investigator title and to assist sheriff's offices with the ability to appoint qualified and diverse candidates. The appointing authority opines that the sunset provision of *N.J.S.A. 11A:4-1.3g*, which states that "[b]eginning on January 1, 2023, a sheriff shall not appoint sheriff's investigators in accordance with this section to more than 50 percent of open sheriff's officer positions in any calendar year," signaled a legislative intent to allow a Sheriff to appoint as many incumbent Sheriff's Investigators as possible to Sheriff's Officer positions before that time so as to increase the number of available Investigator positions, which are capped at 15% of Sheriff's Officers employed by a Sheriff under *N.J.S.A. 40A:9-117a*, and, in turn, mitigate County Correctional Police Officer layoffs by allowing Sheriffs to make many more unclassified appointments than would normally be possible in a given calendar year. As such, the appointing authority maintains that "initial appointment" in the context of *N.J.S.A. 11A:4-1.3g(2)* means the original date an incumbent was appointed as a Sheriff's Investigator.

CONCLUSION

N.J.S.A. 11A:4-1.3, was enacted pursuant to *P.L. 2021, c. 7*, effective August 4, 2021; and amended by *P.L. 2021, c.406*, effective July 18, 2022. This statute exempts certain candidates from the requirement to take an examination for certain entry-level law titles, including Sheriff's Officer. The specific provision at issue in this matter, *N.J.S.A. 11A:4-1.3g*, provides that:

A sheriff's investigator in a sheriff's department shall be eligible for appointment in accordance with this section through transfer to a sheriff's officer position in that same department provided that:

- (1) the investigator has completed at least one year in the position of sheriff's investigator in that sheriff's department or has served at least one year as a police officer or sheriff's officer in a municipal or county police or sheriff's department in this State; and
- (2) the sheriff's investigator is not over 35 years of age at the time of initial appointment in accordance with this section to the sheriff's officer position.

Beginning on January 1, 2023, a sheriff shall not appoint sheriff's investigators in accordance with this section to more than 50 percent of open sheriff's officer positions in any calendar year.

“The Legislature’s intent is the paramount goal when interpreting a statute and, generally, the best indicator of that intent is the statutory language.” *DiProspero v. Penn*, 183 *N.J.* 477, 492 (2005) (internal citation omitted). *See also N.J.S.A.* 1:1-1 (“In the construction of the laws and statutes of this state, both civil and criminal, words and phrases shall be read and construed in their context, and shall, unless inconsistent with the manifest intent of the legislature or unless another or different meaning is expressly indicated, be given their generally accepted meaning. . .”)

The appointing authority contends that the requirement that “the sheriff’s investigator is not over 35 years of age at the time of initial appointment in accordance with this section to the sheriff’s officer position” refers to the age of an incumbent at the time of their appointment to the Sheriff’s Investigator, rather than their age upon appointment to the title of Sheriff’s Officer pursuant to *N.J.S.A.* 11A:4-1.3. However, taken in context, the operative date at which the investigator must be under the age of 35 is the time of their “initial appointment” to the “sheriff’s officer position.” *N.J.S.A.* 11A:4-1.3 does not state an individual must be under the age of 35 at the time of their initial appointment to the title of Sheriff’s Investigator. Rather, it plainly refers to the time of initial appointment to the Sheriff’s Officer position. The appointing authority’s reading of *N.J.S.A.* 11A:4-1.3 as referring to the time of an incumbent’s initial appointment to the title of Sheriff’s Investigator takes the phrase “initial appointment” out of the context of the applicable provision. Specifically, because the statute does not simply provide the investigator shall not be “over 35 years of age at the time of initial appointment,” but rather states, “initial appointment *in accordance with this section to the sheriff’s officer position*,” it is the age of the incumbent at the time of appointment to the Sheriff’s Officer position that is clearly controlling for purpose of *N.J.S.A.* 11A:4-1.3 (emphasis added).

It is imperative to note that when statutory language is clear, the courts will not turn to “extrinsic aids,” such as “legislative history [and] committee reports.” *DiProspero*, 183 *N.J.* at 492-93. Here, for the above-noted reasons, the statutory language is clear. Even assuming *arguendo* that the word “initial” was construed as creating some ambiguity, there is nothing in the legislative history suggesting that the Legislature intended the date of appointment as a Sheriff’s Investigator to be the operative date under this provision. Pursuant to *P.L.* 2021, c. 7, *N.J.S.A.* 11A:4-1.3 originally took effect on August 4, 2021. In this original form, the statute directed the Civil Service Commission (Commission) to “exempt from the requirement to take an examination for an entry-level law enforcement position a person who has successfully completed a full Basic Course for Police Officers training course at a school approved and authorized by the New Jersey Police Training Commission.” The enactment further authorized the Commission to promulgate regulations as necessary, and authorized local and county police departments to make appointments of such exempt persons, upon adoption of a resolution by their governing bodies.

N.J.S.A. 11A:4-1.3 was subsequently amended with the passage of *P.L.* 2021, c. 406, effective July 18, 2022. When the underlying bills (S. 3672 and A. 6009) were introduced, they did not contain the language present in *N.J.S.A.* 11A:4-1.3g. The second reprint of each bill included language specifically prohibiting a Sheriff's Investigator from being appointed as a Sheriff's Officer "in accordance with this section." See S. 3672 (2d Reprint, Dec. 13, 2021); A. 6009 (2d Reprint Dec. 13, 2021). Thereafter, the bills were amended to include the language that was ultimately enacted into law. See A. 6009 (3d Reprint, Jan. 6, 2022). The only statement of legislative intent for this amendment came from the Assembly Appropriations Committee, which indicated that the amendments to the bills:

(5) provide that a sheriff's investigator in a sheriff's department would be eligible for transfer in that same department in accordance with this law (*N.J.S.A.* 11:4-1.3) provided that:

(a) the investigator has completed at least one year in the position of sheriff's investigator in that sheriff's department or has served at least one year as a police officer or sheriff's officer in a municipal or county police or sheriff's department in this State; and

(b) the sheriff's investigator is not over 35 years of age at the time of initial appointment in accordance with this law to the sheriff's officer position.

A. App. Comm. Statement to A. 6009 (Jan. 6, 2022).

This description is the only apparent statement of legislative intent regarding the relevant provision. As it does not indicate a manifest legislative intent at odds with the plain language of the statute and is nearly identical to the language at issue, it cannot be said that it contradicts the plain language of *N.J.S.A.* 11A:4-1.3. Therefore, Agency Services properly denied the appointing authority's request, pursuant to *N.J.S.A.* 11A:4-1.3g, to transfer Sheriff's Investigators over age 35 to the title of Sheriff's Officer, based upon the controlling language in that statute.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED ON
THE 23RD DAY OF FEBRUARY, 2023

Allison Chris Myers

Allison Chris Myers
Acting Chair/Chief Executive Officer
Civil Service Commission

Inquiries
and
Correspondence

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

c: Peter D. Corvelli, Jr.
All County Sheriff appointing authorities
Division of Agency Services