



B-27

STATE OF NEW JERSEY

In the Matter of County Park Ranger,
Atlantic County

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2017-3086

Administrative Appeal

ISSUED: JUN 26 2017

Atlantic County requests that it be permitted to remove eligibles from the certification for County Park Ranger (C0735T), Atlantic County on the basis of good cause as established by the appointing authority.

By way of background, three provisional appointments resulted in the examination for County Park Ranger (C0735T), Atlantic County. The list was promulgated with 16 eligibles on April 28, 2016, and has an expiration date of April 24, 2019. The list was certified (OL160569) on May 5, 2016. In returning the certification, the appointing authority appointed two provisional incumbents, who ranked 5th and 12th, effective November 4, 2016. The appointing authority requested that the first ranking eligible, a veteran, be removed for not completing pre-employment processing. It requested that the eligibles in the second, third, fourth, sixth, 11th, and 13th positions be removed from the list for good cause as established by the appointing authority. In its justification, the appointing authority indicated that it interviewed the nine removed individuals and determined that they did not understand the duties of the position would involve law enforcement, emergency medical, fire/rescue, community policing and crime prevention at parks. It provided final reports on the interviews with reasons why each individual was not an acceptable candidate. The Division of Agency Services (DAS) returned the certification to the appointing authority on January 18, 2017 indicating that reasons for removal, bypass, or non-selection of eligibles was not acceptable, and requested that it properly dispose of the certification within 10 days.

In its request to the Civil Service Commission (Commission), the appointing authority presents that the job specification for County Park Ranger states that appointees will be required to successfully complete a training program mandated by the New Jersey Police Training Commission (PTC) within 18 months of appointment. The appointing authority further stated that there are no training classes scheduled in the State in the near future, and the three provisional incumbents are waived from attending the County Park Ranger academy due to having been certified as Law Enforcement officers. It maintains that these individuals are trained in all aspects of the job, and replacing one of the provisional incumbents with individuals who are untrained and waiting for the next academy class would decrease the amount of coverage in the park system and result in a public safety risk. It contends that it would have to place new appointees in non-field positions while waiting for training, as they would be restricted from performing the full law enforcement duties of the title. Therefore, the appointing authority requests that the certification be accepted with the appointments of the 5th and 12th ranking candidates, as well as the appointment of the third provisional serving in the title and who does not appear on the eligible list.

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C. 4A:4-6.1(a)9*, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for an appointment. However, it is noted that the Commission is not bound by the criteria utilized by the appointing authority and must decide each list removal appeal on the basis of the record presented. See e.g., *In the Matter of Debra Dygon* (MSB, decided May 23, 2000).

N.J.S.A. 11A:4-8, *N.J.S.A. 11A:5-7* and *N.J.A.C. 4A:4-4.8(a)3* allow an appointing authority to select any of the top three interested eligibles on a promotional list provided no veteran heads the list ("Rule of three").

CONCLUSION

In the present matter, there is no basis upon which grant the appointing authority's request. Initially, the job specification for County Park Ranger requires appointees to successfully complete a training program mandated by the PTC within 18 months of appointment. Other than the assertion that the PTC and Monmouth County advised it that there are no training classes scheduled in the near future for this title, the appointing authority provides no evidence from these entities that training classes would not be scheduled at some point within 18 months of appointment. Incumbents in the County Park Ranger title have law enforcement powers but only while they are actively engaged in the course of their on-duty employment. As such, appointees are required to attend a County Park

Ranger class, not the Basic Course for Police Officers. The responsibility for training County Park Ranger incumbents falls on the appointing authority but completion of this training is not required to establish eligibility to compete in the open-competitive examination. Further, the appointing authority has not provided any evidence that there is a protocol approved by the PTC to waive County Park Ranger training for individuals who have completed the Basic Course for Police Officer.

With respect to the eligibles' performance in the job interview, since completion of the PTC training is not an open-competitive requirement for the title, the appointing authority cannot use the fact that eligibles were unaware of this post-appointment required training as a basis to remove his/her name from the list. For example, the appointing authority indicated that the eligible listed in the second position on the certification thought that County Park Rangers "were guides, not law enforcement." While this may suggest he is not interested in the position, it does not warrant his removal from the list because he is unqualified. In the same vein, the eligible listed in the eighth position, who was surprised to learn that the County Park Ranger title was quasi-law enforcement and required completion of a PTC academy is not evidence that she is unqualified for the position. Rather, it suggests that she may not be interested in this type of position. Similarly, the eligible listed in the sixth position indicated during her interview that she would not be available for duty during storms and indicated that if hired, she would "fit you in when I'm off." These statements do not indicate that she has not met the basic Civil Service requirement for the title, it suggests that she may not be available for appointment. The appointing authority may bypass two individuals pursuant to *N.J.A.C. 4A:4A:4-4.8(a)3*. In the instant matter, the first ranking eligible on the list was a veteran who was appropriately removed for non-completion of pre-employment processing. However, without more information, the appointing authority has not demonstrated that the remaining nine individuals are not qualified. Therefore, the appointing authority should contact the remaining eligibles on the certification to determine if any are currently interested in the position. If they are not interested in the position or are unavailable, the appointing authority should document this when it disposes of the certification. However, if a reachable eligible is interested, absent a valid basis to remove his or her name, the appointing authority should consider him or her for an appointment.

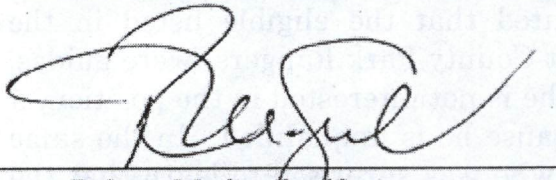
ORDER

Therefore, the Commission orders the appointing authority to immediately properly dispose of the outstanding certification within 30 days of the issuance of this decision by making permanent appointments of reachable and interested eligibles. Such disposition must be filed with the Certification Manager on or before thirty (30) days from the issuance of this order. In the event the appointing authority fails to make a good of faith effort to fully comply with this order within

this time frame, fines may be assessed up to a maximum of ten thousand dollars (\$10,000.00). 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 action in the matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION
THE 21st DAY OF JUNE, 2017



Robert M. Czedh, Chairperson
Civil Service Commission

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