

	STATE OF NEW JERSEY
In the Matter of Dietician (M0080V), Plainfield	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION
CSC Docket No. 2019-1982	Appointment Waiver
	ISSUED: APRIL 26, 2019 (SLK)

Plainfield requests permission not to make an appointment from the July 16, 2018 certification for Dietician (M0080V).

The record reveals that in December 2016, Plainfield provisionally appointed Ryan Farley, pending open competitive examination procedures, to the subject title. The M0080V examination resulted in an employment roster of eight eligibles, which promulgated on June 29, 2017 and expires on June 28, 2020. On July 16, 2018, a certification was issued which contained the names of the eight eligibles. Thereafter, Plainfield requested an appointment waiver. Personnel records indicate that Farley was removed from the title.

The Division of Appeals and Regulatory Affairs indicated to Plainfield that it received its request for an appointment waiver in this matter. Moreover, it was advised that if an appointment waiver was granted, it could be assessed for the costs of the selection process in the amount of \$2,048 and that it could submit reasons why costs of the selection process should not be assessed. However, although given this opportunity, Plainfield did not respond. Further, it is noted that Plainfield took no action to obviate the need for this examination at the time of the announcement or prior to its administration. See N.J.A.C. 4A:10-2.2(a)1.

A review of agency records indicates that there are no other employees recorded as serving provisionally pending open competitive examination procedures in the subject title with Plainfield.

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 as the result of the provisional appointment of Ryan Farley to the subject title. However, after a complete certification was issued, the appointing authority indicated that Farley was removed from the subject title. Consequently, since there are no provisionals serving in the title at issue, 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 for 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. In this regard, the removal of the provisional is insufficient to support a waiver of the costs of the selection process. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that Plainfield be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 24th DAY OF APRIL, 2019

Derrare' L. Webster Calib

Deirdré L. Webster Cobb Chairperson Civil Service Commission

Inquiries and Correspondence Christopher S. Myers Director Division of Appeals & Regulatory Affairs Civil Service Commission Written Record Appeals Unit P.O. Box 312 Trenton, New Jersey 08625-0312

c: Carlos Sanchez Kelly Glenn Records Center Beth Wood