

STATE OF NEW JERSEY

In the Matter of Vineland Fire Fighters

CSC Docket No. 2020-2737

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Administrative Appeal

:

ISSUED: JULY 2, 2020 (TMG)

The City of Vineland petitions the Civil Service Commission to permit the conditional appointments of Dominick Pace and Christopher Wolfe to the title of Fire Fighter.

By way of background, the Fire Fighter Examination consists of two parts, a written examination, on which candidates are ranked, and the Physical Performance Test (PPT), which simulates the physical activities Fire Fighters perform on the job, and is administered as a pass/fail examination. Moreover, the eligible list for Fire Fighter is issued prior to administering the PPT. Candidates are only tested via the PPT when a Certification of Eligibles is issued and candidates have responded as interested in the position. Under normal circumstances, the PPT would then be administered and the appointing authority would subsequently be notified of those who passed the PPT.

In the present matter, the open competitive list for Fire Fighter, Vineland (M1878W) promulgated on March 29, 2019 and expires on March 28, 2021. Dominick Pace and Christopher Wolf, both non-veterans, passed the written examination and ranked 3rd and 5th on the eligible list, respectively. The list was certified (OL200182) on February 14, 2020 and has a disposition due date of August 14, 2020. Pace and Wolf's names were in the 3rd and 5th positions, respectively, and responded as interested. However, due to the current COVID-19 pandemic and the subsequent stay at home orders and social distancing requirements, this agency has been unable to schedule the PPT.

In its petition to the Civil Service Commission (Commission), Vineland requests permission to conditionally appoint Pace and Wolf as Fire Fighters. In this regard, the appointing authority underscores that confronted with the current COVID-19 pandemic, it has been difficult for Vineland to complete its hiring processes. Although it has managed to complete its internal hiring processes for Pace and Wolf but has not been able to appoint them because they have not tested and passed the PPT. The appointing authority emphasizes that these unfilled positions have created a budgetary hardship as, in order to ensure coverage, it requires it to pay overtime to current Fire Fighters. Additionally, it notes that these unfilled positions may ultimately result in safety issues for its fire fighters and the general public. Under these circumstances, the appointing authority requests that Pace and Wolfe be conditionally appointed until such time as they can be tested via the PPT.

CONCLUSION

In circumstances where an appointing authority needs to make an appointment, and an incomplete eligible list or no eligible list exits, a provisional appointment may be made pursuant to N.J.A.C. 4A:4-1.5. However, N.J.A.C. 4A:1.4 permits the conditional regular appointment in the competitive division of the career service when disputes or appeals concerning higher ranking eligible may affect the final appointments. The conditional appointment will be changed to a Regular appointment when the appeal outcome does not change the list. N.J.A.C. 4A:1-1.2(c) permits the Commission to relax a rule for good cause to effectuate the purposes of Title 11A, New Jersey Statues.

Administering a portion of the test after a list is issued presents a unique circumstance in that there is an eligible list, and even a complete certification of eligibles, but regular appointments cannot be made unless the eligible take and pass the PPT. In this case, COVID-19 safety measures have delayed the administration of the PPT and the appointing authority indicates that it has suffered budgetary hardships due to the fact that it is required to pay overtime to other fire fighters as it cannot permanently fill two vacancies. Had an eligible list not been in place, the appointing authority could have made a provisional appointment. However, in this case, even though a list exists, the appointing authority cannot make a permanent appointment until the PPT is administered. Under these unique circumstances, the Commission finds it appropriate to relax the provisions of N.J.A.C. 4A:1.4 and N.J.A.C. 4A:4-1.5 to permit Conditional Regular Appointment of Pace and Wolfe to the title of Fire Fighter pending successful completion of the PPT, whenever it is administered. Should they pass the PPT, their appointments will change to Regular Appointments. However, should either fail the PPT or are otherwise unable to be appointed, they should be separated and other reachable eligibles should be appointed from the certification.

ORDER

Therefore, it is ordered that this request be granted the conditional regular appointments of Pace and Wolfe be recorded pending administration of the PPT. However, should either fail the PPT or are otherwise unable to be appointed, they should be separated and other reachable eligibles should be appointed from the certification.

DECISION RENDERED BY THE CIVIL SERVICE COMMISSION ON THE 1ST DAY OF JULY, 2020

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Chairperson

Civil Service Commission

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