



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Administrative
Office of the Courts

CSC Docket Nos. 2020-2739, *et al.*

Appointment Waivers

ISSUED: AUGUST 26, 2020 (BW)

The Administrative Office of the Courts (AOC) requests permission not to make appointments from certifications for various lists, Administrative Office of the Courts. The certifications are as follows:

Title: Judiciary Clerk 2 (S0402V), (S0820W), (S0387A) and (S0591A)

Jurisdiction: Judiciary – Salem County

Certification No.: OS200169

Certification Issued: March 5, 2020

Lists Expire: January 23, 2022 (S0402V, S0820W and S0591A) and October 9, 2022 (S0387A)

Title: Judiciary Clerk 2 (S0402V), (S0387A) and (S0591A)

Jurisdiction: Judiciary – Warren County

Certification No.: OS200151

Certification Issued: February 25, 2020

Lists Expire: November 29, 2020, October 9, 2022 and January 23, 2022

Title: Judiciary Clerk 2 (S0820W) and (S0951A)

Jurisdiction: Judiciary – Bergen County

Certification No.: OS200131

Certification Issued: February 18, 2020

Lists Expires: January 23, 2022

Title: Judiciary Clerk 2 (S0820W), (S0387A) and (S0591A)

Jurisdiction: Judiciary – Essex County

Certification No.: OS200132

Certification Issued: February 18, 2020

Lists Expire: January 23, 2022, October 9, 2022 and January 23, 2022

Title: Judiciary Clerk 2 (S0820W), (S0387A) and (S0591A)

Jurisdiction: Judiciary – Hunterdon County

Certification No.: OS200149

Certification Issued: February 25, 2020

Lists Expire: January 23, 2022, October 9, 2022 and January 23, 2022

Title: Judiciary Clerk 2 (S0820W), (S0387A) and (S0591A)

Jurisdiction: Judiciary – Passaic County

Certification No.: OS200103

Certification Issued: February 18, 2020

Lists Expire: January 23, 2022, October 9, 2022 and January 23, 2022

Title: Judiciary Clerk 2, Bilingual in SP/ENG (S0390A) and (S0592A)

Jurisdiction: Judiciary – Passaic County

Certification No.: OS200102

Certification Issued: February 4, 2020

Lists Expire: October 9, 2022 and January 29, 2023

Title: Judiciary Clerk 2, Bilingual in SP/ENG (S0390A) and (S0592A)

Jurisdiction: Judiciary – Somerset County

Certification No.: OS200148

Certification Issued: February 25, 2020

Lists Expire: October 9, 2022 and January 29, 2023

The record reveals that the appointing authority seeks appointment waivers for Judiciary Clerk 2 and Judiciary Clerk 2, Bilingual in Spanish and English titles for Bergen County, Essex County, Hunterdon County, Passaic County, Salem County, Somerset County and Warren County.

The appointing authority has not returned the certifications and requests waivers of the appointment requirement without making appointments indicating that permanent appointments would not be made from the subject lists at this time.

It indicated that due to the COVID-19 pandemic, the Courts have modified the day-to-day work to accommodate remote work functions, limiting the need for the Judiciary Clerk 2 titles. Since the pandemic started, the Judiciary has taken an aggressive approach to try to be fiscally responsive to the pending budget crisis and imposed a hiring freeze on April 2, 2020, for all non-critical positions. Accordingly, it requested a waiver of the appointment requirement as well as a waiver of any selection costs.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$8,285 for each list.

It is noted that there are currently no employees serving provisionally pending open competitive examination procedures in the subject titles with the appointing authority.

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 for a list 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 by the Civil Service Commission for a valid reason such as fiscal constraints.

In the instant matters, the examinations for the subject titles were generated based on the appointing authority's request for a list to fill vacancies. However, after complete certifications were issued, the appointing authority requested appointment waivers. The appointing authority indicated that since the pandemic started, the Judiciary has taken an aggressive approach to try to be fiscally responsive to the pending budget crisis and imposed a hiring freeze on April 2, 2020, for all non-critical positions. Under these circumstances, the appointing authority has presented adequate justification for granting the appointment waivers.

Although the appointment waivers are granted, 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 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, effort and money to take these examinations in hopes of being considered for a permanent appointment. Since the pandemic started, the Judiciary has taken an aggressive approach to try to be

fiscally responsive to the pending budget crisis and imposed a hiring freeze on April 2, 2020, for all non-critical positions. Moreover, it is noted that for each list, with the exception of (S0591A) and S0592A), the Judiciary has already made numerous appointments. Accordingly, it would not be appropriate to assess selection costs for those lists. However, regarding (S0591A) and (S0592A), if the appointing authority fails to utilize those lists by their expiration dates these matters can be reviewed to ascertain whether an assessment of costs for those lists should be made.

These matters can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that these requests for waiver of the appointment requirement be granted and no selection costs be assessed for all lists except for (S0591A) and S0592A). For those lists, the costs will be re-examined after the expiration of those lists.

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 19TH DAY OF AUGUST, 2020



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