



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of COVID-19
Unclassified Titles

Title Creation

CSC Docket No. 2021-273

ISSUED: OCTOBER 2, 2020 (HS)

The Division of Agency Services (Agency Services) requests the establishment of the unclassified titles of NJLINCS COVID-19 Coordinator; NJLINCS COVID-19 Data Manager/Epidemiologist; and NJLINCS COVID-19 Social Support Coordinator for use in county government.

In support of its request, Agency Services presents that the New Jersey Association of Counties (NJAC), on behalf of county government jurisdictions, requested the creation of the subject titles to address staffing requirements as provided to county health officers by the New Jersey Department of Health (DOH). The subject positions will be supported through a two-year grant awarded by the DOH for the COVID-19 pandemic and involve related program coordination, social support and data management/epidemiologist functions within the New Jersey Local Information Network Communications System (NJLINCS). NJLINCS is a system of public health professionals and electronic public health information that enhances the identification and containment of diseases and hazardous conditions that threaten the public’s health. The NJLINCS COVID-19 Coordinator position will coordinate all COVID-related work within the jurisdiction and, in collaboration with health officers, serve as the main liaison to the DOH. The NJLINCS COVID-19 Data Manager/Epidemiologist position will provide data management and epidemiological support to all local health departments (LHDs) and contact tracing teams within the NJLINCS jurisdiction and analyze and report COVID-related data to local, county, regional and State partners for use in COVID-related planning, response and evaluation initiatives. The NJLINCS COVID-19 Social Support Coordinator position will coordinate with and assist LHDs and contact tracing teams within the NJLINCS

jurisdiction on matters pertaining to COVID-positive and COVID-exposed persons requiring isolation, quarantine or other social services to address housing, transportation, food, mental health, medical services, insurance coverage, unemployment compensation and other needs. The NJAC stated that the positions are linked to funding that is provided by grant monies associated with the COVID-19 pandemic; there is no expectation that the funding source will continue beyond the current health crisis; and tenure should not be anticipated. Additionally, the positions require immediate action to fill in order to address the current crisis.

Agency Services indicates that it reviewed existing titles to determine if there were any titles that would accommodate the counties' needs. Upon its review, Agency Services determined that there were no current titles commensurate with the specific requirements, roles and responsibilities as described. Given the limited duration of the grant-funded program; the temporary nature of the appointments; and the urgent need for counties to make immediate appointments to address the public health emergency and meet requirements mandated for the administration of the grant-funded positions, Agency Services maintains that the requested titles should be created within the unclassified service. Agency Services also notes that it has developed job specifications for the new titles, and it requests that the creation of the new titles be effective the first Monday following the approval of the Civil Service Commission (Commission).

CONCLUSION

In matters involving the question of whether a particular title should be allocated to the career or unclassified service, the starting point is the *New Jersey Constitution*, Article VII, sec. 1, par. 2, providing that:

Appointments and promotions in the civil service of the State, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, *as far as practicable, by examination*, which, as far as practicable, shall be competitive; except that preference in appointments by reason of active service in any branch of the military or naval forces of the United States in time of war may be provided by law (emphasis added).

An interpretation of Civil Service law governing the unclassified service must be made in view of this constitutional mandate and a strict interpretation is generally given in matters concerning allocation to the unclassified service. *See In the Matter of Investigator, Penal Institution, et al., Essex County* (MSB, decided September 16, 1997).

In local service, *N.J.S.A. 11A:3-5* provides that the unclassified service shall be limited to those titles it specifically designates and all other titles created by law

or as the Commission may determine. *N.J.A.C.* 4A:3-1.1(a) provides that all job titles shall be allocated to the career service, except for those job titles allocated by the Commission to the unclassified service pursuant to *N.J.A.C.* 4A:3-1.3. *N.J.A.C.* 4A:3-1.3(a) provides that a title shall be allocated to the unclassified service when:

- 1) In State service, the title is so designated under *N.J.S.A.* 11A:3-4;
- 2) In local service, the title is so designated under *N.J.S.A.* 11A:3-5;
- 3) The title is designated unclassified by another specific statute;
- 4) A specific statute provides that incumbents in the title serve for a fixed term or at the pleasure of the appointing authority; or
- 5) The Commission determines that it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title.

Our courts have recognized the State's strong public policy, as evinced by the State Constitution, favoring the inclusion of as many titles as possible in the career service. See *Walsh v. Department of Civil Service*, 32 *N.J. Super.* 39, 43-44 (App. Div. 1954); *Loboda v. Clark Township*, 40 *N.J.* 424, 434 (1983); *State v. Clark*, 15 *N.J.* 334, 341 (1954); *In the Matter of Hudson County Probation Department*, 178 *N.J. Super.* 362, 371 (App. Div. 1981). This principle of ascertaining "merit and fitness" for appointments and promotions through an open competitive examination process is at the very heart of our merit system.

In this matter, there is no question that the titles requested by Agency Services are not specifically designated by *N.J.S.A.* 11A:3-5, nor is there specific statutory authority for unclassified appointments to the positions. Likewise, there is no statutory provision allowing for the appointments of incumbents in the titles to serve for fixed terms or at the pleasure of an appointing authority. Therefore, it is necessary to evaluate this matter under *N.J.A.C.* 4A:3-1.3(a)5, which specifies that the Commission may allocate a title to the unclassified service if it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title.

It has been the established practice of this agency to administer examinations for each competitive title. As such, for each examination, this agency issues either an open competitive or promotional announcement; reviews the resultant applications that are received to determine eligibility to compete in the examination; develops and conducts an examination; issues eligible lists ranking those candidates

who passed the examination; and certifies the eligible list so that an appointing authority can consider interested eligibles for appointment. While this methodology is clearly consistent with the constitutional and statutory mandate to select and advance employees on the basis of merit and fitness, it cannot be ignored that this process can take several months to complete. Given the immediate need to make appointments in order to address the present public health emergency and the fact that the appointments, supported as they are by a two-year grant, will be of limited duration, the Commission finds that it would not be practicable to determine merit and fitness for appointment through an examination process or make permanent appointments to the titles requested. Thus, the Commission concludes that there is good cause to permit the creation of the requested titles in the unclassified service.

ORDER

Therefore, it is ordered that this request be granted and that the titles of NJLINCS COVID-19 Coordinator; NJLINCS COVID-19 Data Manager/Epidemiologist; and NJLINCS COVID-19 Social Support Coordinator are established in the unclassified service, effective October 5, 2020, to be utilized in county government.

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 30TH DAY OF SEPTEMBER, 2020

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

- c. Division of Agency Services
John G. Donnadio, Esq.
Records Center