



It is noted that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.<sup>1</sup>

## 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 a result of a provisional appointment. However, after a complete certification was issued, the appointing authority requested an appointment waiver, indicating that a permanent appointment would not be made from the subject list. Specifically, it explained that it is not able to fill the position due to budgetary constraints resulting in reduction to the Administration's salary and wages appropriation. Accordingly, there is a 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 case, the appointing authority's separation of the provisional employee and its determination that a permanent appointment would not be made from the subject list due to budgetary constraints resulting in reduction to the Administration's salary and wages appropriation are sufficient for an appointment waiver but do not provide a basis to waive the assessment of costs.

## ORDER

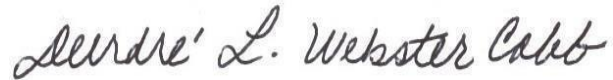
Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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<sup>1</sup> It is noted that Steeve Augustin, the provisional employee, was removed from employment on October 12, 2020.

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 20<sup>H</sup> DAY OF JANUARY 2021



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Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: Dahlia O. Vertreese, Mayor  
Division of Agency Services  
Division of Appeals and Regulatory Affairs