



STATE OF NEW JERSEY

In the Matter of Administrative
Analyst (M0631C), North Brunswick

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

CSC Docket No. 2022-3095

Appointment Waiver

ISSUED: August 24, 2022 (AMR)

North Brunswick, represented by Katie Mocco, Esq., requests permission not to make an appointment from the March 21, 2022 certification for Administrative Analyst (M0631C), North Brunswick.

The record reveals that North Brunswick provisionally appointed John Haas, pending open competitive examination procedures, to the subject title, effective March 8, 2021. An examination was announced with a closing date of November 22, 2021 that resulted in a list of three eligibles, which promulgated on March 17, 2022 and expires on March 16, 2025. It is noted that Haas filed for the subject examination and was deemed ineligible. It is further noted that Haas was separated from his provisional position effective April 21, 2022. He thereafter received a regular appointment to the non-competitive title of Computer Operator Trainee, effective April 25, 2022. Furthermore, there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority did not return the certification. Rather, it requested a waiver of the appointment requirement and that it not be assessed the selection costs of the examination. It stated that shortly after the certification issued, it was determined that Haas had been performing duties consistent with the job description of the non-competitive title Computer Operator Trainee. It maintained that many of the duties that were incorporated in Haas' Administrative Analyst position were encompassed in the Computer Operator Trainee title. Therefore, on April 25, 2022, the appointing authority appointed Haas to the appropriate title of Computer Operator Trainee and discovered that this position more appropriately served the

needs of the appointing authority, eliminating the need for the Administrative Analyst title. The appointing authority stated that filling the position of Administrative Analyst at this time would result in an unnecessary and costly redundancy and would encumber North Brunswick with a significant and needless financial burden. Finally, the appointing authority indicated that should its needs change or increase such that the Administrative Analyst position becomes suitable and appropriate to effectuate an appointment, North Brunswick will utilize the subject eligible list prior to its expiration.

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 \$2,048. The appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

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 the provisional appointment of Haas. However, after a complete certification was issued, the appointing authority later requested an appointment waiver, explaining that Haas had been separated from the subject title and received a regular appointment to the non-competitive and more appropriate title of Computer Operator Trainee, effective April 25, 2022. Thus, in conjunction with the fact that there are no provisionals currently serving, 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 list in question will not expire until March 16, 2025, and the appointing authority has indicated that it would utilize the subject eligible list prior to its expiration should its needs change such that an Administrative Analyst position becomes warranted. Accordingly, under the particular circumstances of this matter, it would not be

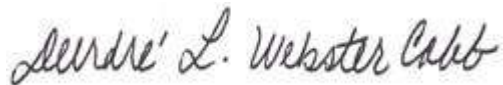
appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event it fails to utilize the subject eligible list by its expiration date of March 16, 2025, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs presently be assessed.

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 AUGUST, 2022



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