



STATE OF NEW JERSEY

In the Matter of Intelligence Analyst
Apprentice, Office of Homeland
Security and Preparedness

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2023-830

Title Creation

ISSUED: November 2, 2022 (HS)

The Division of Agency Services (Agency Services) requests the establishment of the unclassified title of Intelligence Analyst Apprentice, Office of Homeland Security and Preparedness.

As background, *P.L. 2001, c. 246* established the Domestic Security Preparedness Task Force (Task Force). The legislation provided:

The [Task Force] may appoint, in accordance with its plan of operation, such personnel, including attorneys, *professionals in the field of terrorism and terrorism preparedness*, disaster response, mitigation and recovery, and such other special consultants and experts as may be deemed necessary to carry out its duties under this act, as well as such clerical and other personnel as may be appropriate and necessary. All employees appointed pursuant to this section shall be in the *unclassified service* of the civil service of the State and shall be deemed confidential employees for the purposes of the [New Jersey Employer-Employee Relations Act] (emphases added).

Subsequently, the Office of Homeland Security and Preparedness (Office) was created to administer, coordinate, lead, and supervise New Jersey’s counter-terrorism and preparedness efforts. The Task Force became part of the Office, and all staff, funding, and other resources associated with the Task Force became part of the Office. *See Executive Order No. 5 (Corzine, March 16, 2006).*

The instant request follows an expressed need by the Office. Agency Services indicates that the new title would be assigned exclusively to the Office. Its primary functions would be to receive on-the-job training in conducting analytical research on highly sensitive and classified information and data retrieved from various sources of information and to learn how to assist in performing and conducting administrative and operations studies of organizations, corporations, businesses, groups, or ideologies that may have an allegiance to terrorist groups or organizations in the United States or abroad with assets or interests in New Jersey. The title would function as an entry-level title to the Intelligence Analyst, Office of Homeland Security and Preparedness title series. The existing titles in the series are allocated to the unclassified service. Agency Services also notes that it has developed a job specification for the new title. Agency Services requests that the effective date for the creation of the new title be the beginning of the first pay period following the Civil Service Commission's (Commission) approval.

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 State service, *N.J.S.A.* 11A:3-4 provides that the unclassified service shall be limited to those titles it specifically designates and all other titles as provided 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 promotions and appointments through an open competitive examination process is at the very heart of our merit system.

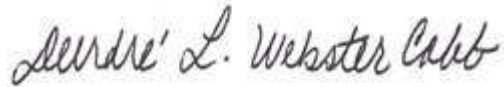
Against this background, in this matter, Civil Service law and rules amply support the establishment of the proposed new title in the unclassified service. Specific legislation designates that the Task Force, now part of the Office, may appoint, in accordance with its plan of operation, such personnel including professionals in the field of terrorism and terrorism preparedness and that such employees shall be in the unclassified service. Moreover, the existing titles in the series are already allocated to the unclassified service. Thus, the Commission concludes that there is good cause to permit the creation of the unclassified title of Intelligence Analyst Apprentice, Office of Homeland Security and Preparedness.

ORDER

Therefore, it is ordered that this request be granted and that the title of Intelligence Analyst Apprentice, Office of Homeland Security and Preparedness be established in the unclassified service, effective November 5, 2022.

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 2ND DAY OF NOVEMBER, 2022



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