



STATE OF NEW JERSEY

In the Matter of Administrative
Assistant 3 (S0769C), Stockton
University

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

CSC Docket No. 2022-2897

Appointment Waiver

ISSUED: September 21, 2022(AMR)

Stockton University requests permission not to make an appointment from the May 2, 2022 certification for Administrative Assistant 3 (S0769C).

The record reveals that Stockton University provisionally appointed William Harron, pending open competitive examination procedures, to the subject title, effective January 18, 2021.¹ An examination was announced with a closing date of December 21, 2021 that resulted in a list of 13 eligibles, which promulgated on April 28, 2022 and expires on April 27, 2025. It is noted that Harron filed for the subject examination and was deemed ineligible. It is further noted that Harron was returned to his permanent position of Professional Services Specialist 4, Administrative Services effective June 4, 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 stated that it was unable to hire and appoint a new candidate from the subject eligible list due to financial constraints brought about by the COVID-19 pandemic and low enrollment rates for the 2022 school year.

¹ Harron's appointment was a result of a classification determination by the Division of Agency Services, which found that the proper job classification of Harron's position was Administrative Assistant 3.

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. The appointing authority responded by reiterating its inability to hire and appoint any new eligible from the subject eligible list due to financial constraints and low enrollment rates for the 2022 school year. It also requested that the selection cost of \$8,285 be held in abeyance in the hopes that the eligible list would be utilized by another State agency.²

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 Harron. However, after a complete certification was issued, the appointing authority later requested an appointment waiver. Harron had been found ineligible for the examination, and the appointing authority returned Harron to his previous permanent title of Professional Services Specialist 4, Administrative Services. Thus, in conjunction with the fact that there are no provisionals currently serving with the appointing authority, and the appointing authority's indication that it is unable to hire and appoint any new eligibles from the subject eligible list due to financial constraints and low enrollment rates for the 2022 school year, 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 April 27, 2025, and the appointing authority has indicated it is hopeful that the eligible list would be utilized by another State agency. Agency records indicate that there are currently three State agencies which have pending certifications from the Administrative Assistant 3 (S0769C) eligible list. Accordingly, under the particular circumstances of this matter, it would not be

² It is noted that agency records indicate that there are three State agencies which have pending certifications from the Administrative Assistant 3 (S0769C) eligible list at this time.

appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event that the subject eligible list fails to be utilized by the appointing authority or any State agency by its expiration date of April 27, 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 21ST DAY OF SEPTEMBER, 2022

Dolores Gorczyca

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