



STATE OF NEW JERSEY

In the Matter of Department of
Environmental Protection,
Department of Health and
Department of Agriculture Titles

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

CSC Docket No. 2025-1927

Request for Title Reallocation

ISSUED: April 9, 2025 (ABR)

The Division of Agency Services (Agency Services) requests that specified titles within the Department of Environmental Protection, Department of Health and the Department of Agriculture be placed in the noncompetitive division of the career service on an interim basis in order to permanently appoint 24 individuals in those agencies. Additionally, the New Jersey Governor's Office of Employee Relations (GOER) and the Communications Workers of America (CWA) request certain vacation time allotment for the affected employees.

By way of background, in 2018, the New Jersey Legislature passed the Workplace Democracy Enhancement Act (WEDA), *N.J.S.A. 34:13A-5.11 et seq.* The WEDA decreed that all regular full-time and part-time employees of a public employer who perform negotiations unit work be included in the negotiations unit represented by the exclusive employee representative organization.

Over the past few years, GOER and CWA have reviewed the status of thousands of previously non-aligned employees in employee relations groups V, W, X and Y to determine whether these employees would be appropriate for inclusion in CWA negotiations units A, P, R, and S. They also reviewed the titles assigned to employee relations groups V, W, X, and Y to determine which titles would be appropriate to move to the CWA negotiations units. There are unclassified employees currently in these titles, who, based on their job duties, will need to have their titles converted to existing A, P, R, and S titles. GOER and CWA met employees and their

departments to identify A, P, R, and S titles that were consistent with the employees' duties and provided written statements from appointing authorities attesting that all subject employees have been performing the appropriate duties for their proposed titles and satisfy qualifications for the proposed titles.

A first request was filed with the Civil Service Commission (Commission) on December 22, 2022. In its decision, *In the Matter of Unclassified Employees, Office of Information Technology and Board of Public Utilities* (CSC, decided March 15, 2023), the Commission ordered that the requests be granted with respect to 25 employees at the Office of Information Technology (OIT) and the Board of Public Utilities (BPU). The Commission noted in its decision:

There are likely similar affected unclassified employees in other State appointing authorities who should be afforded similar equitable relief as the OIT and BPU employees involved in this matter. As such, GOER, in collaboration with other State appointing authorities and negotiations representatives, may present similar rule relaxation requests for similarly affected unclassified employees. However, the Commission stresses that it will only entertain one such request per affected State appointing authority.

In this matter, GOER and CWA assert that interim non-competitive designations are necessary to implement the requirements of the WDEA. The A, P, R, and S titles at issue are currently allocated to the competitive division of the career service. GOER and CWA proffer that if unclassified employees with no underlying career service titles/statuses are moved to the subject A, P, R and S negotiations units without first being placed into interim non-competitive designations, they would be appointed to competitive titles provisionally, pending an open competitive examination, meaning that they could be vulnerable to displacement.¹ Agency Services submits a spreadsheet of affected employees, their current titles, and agreed upon A, P, R, and S, titles. Agency Services further states that the Commission does not need to take any action to effectuate the appointments of two of the employees on the spreadsheet whose proposed A, P, R, S, titles are already assigned to the non-competitive division. It also advises that for the remaining listed employees currently serving in the title of Legal Specialist, no action is required in the instant matter, as it is anticipated that the Commission will address them through a separate request to create an unclassified title series for Legal Specialist.²

¹ It is noted that there is no indication the provisions of *N.J.S.A. 34:13A-5.11 et seq.* require movement of affected employees to titles allocated to the career service.

² The remainder of the employees on the spreadsheet include two Confidential Assistants, three Confidential Secretaries, seven Government Representative 1s, eight Government Representative 2s, three Government Representative 3s, and one Public Information Officer.

In addition to conversion to the career service, GOER and CWA also request alternative measures for the vacation allotment of affected employees. The parties request that, following the Commission's approval of conversion to the career service, affected employees be permitted to continue using the remaining vacation time credited at the beginning of the 2025 calendar year. However, the parties state that at the beginning of the 2026 calendar year, the affected employees would receive the annual vacation allotment in accordance with *N.J.S.A.* 11A:6-2 and *N.J.A.C.* 4A:6-1.2. Moreover, each affected employee would be permitted to carry over unused vacation time from 2025 into the 2026 calendar year. Beginning calendar year 2027, the affected employees shall not be permitted to carry over unused vacation from 2026 into 2027 which exceeds the annual allotment permitted by statute.

CONCLUSION

N.J.A.C. 4A:3-1.2(c) provides that a job title may be placed in the noncompetitive division on an ongoing or interim basis when it is determined by the Commission that it is appropriate to make permanent appointments to the title and one or more of the following criteria are met.

1. Competitive testing is not practicable due to the nature of the knowledge, skills, and abilities associated with the job;
2. Certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems, and working conditions; or
3. There is a need for immediate appointments arising from a new legislative program or major agency reorganization.

For the reasons as stated above, the Commission grants the request pursuant to *N.J.A.C.* 4A:3-1.2(c)3 in order to allocate the titles referenced above to the noncompetitive division of the career service on an interim basis, for one pay period, to effectuate the appointment of the affected employees into the appropriate titles. It is noted that the employees would need to serve current working test periods, since appointments cannot become permanent until successful completion of a working test period pursuant to *N.J.A.C.* 4A:4-5.1, *et seq.* Additionally, the affected employees' vacation time shall be allocated as described above. Further, this decision is based on the unique facts of this case and does not set a precedent for any other matter.

ORDER

It is ordered that the specified titles within the Department of Environmental Protection, Department of Health and the Department of Agriculture be reallocated

to the noncompetitive division title of the career service on an interim basis, for one pay period, in order to effectuate the appointment of the 24 affected employees into the appropriate career service competitive division titles. It is further ordered that such actions be effective the first pay period following the Commission's approval. Additionally, the affected employees' vacation time shall be allocated as described above.

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 9TH DAY OF APRIL, 2025



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