



**STATE OF NEW JERSEY**

In the Matter of John Baird,  
Compliance Officer 1 Code  
Enforcement (S1082F), Statewide

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

CSC Docket No. 2025-1919

Bypass Appeal

**ISSUED: August 13, 2025 (HS)**

John Baird appeals his nonappointment on the Compliance Officer 1 Code Enforcement (S1082F), Statewide, eligible list.

As background, the subject examination was announced with a closing date of July 22, 2024 and was open to New Jersey residents who possessed seven years of experience involving the research, interpretation or application of administrative codes, statutes and/or technical codes of a governmental regulatory program. A Bachelor's degree could be substituted for four years of experience. A Master's degree in Engineering, Planning or Architecture could be substituted for five years of experience. The examination was administered as a qualifying unassembled examination, where all candidates who met the eligibility requirements received the same score. The resulting eligible list of 12 equally ranked non-veterans, including the appellant, issued on October 2, 2024; promulgated on October 10, 2024; and expires on October 9, 2026. A certification, consisting of the names of all eligibles, was issued on October 15, 2024 (OS240581) to the Department of Labor and Workforce Development. In disposing of the certification, the appointing authority, in pertinent part, appointed, effective January 25, 2025, F.C., C.L., M.M., and O.V., all of whom had been serving provisionally in the subject title. The appellant's name was retained on the eligible list.

In his appeal to the Civil Service Commission (Commission), postmarked March 21, 2025, the appellant questioned the process as all eligibles received the same score based on a resume review instead of a written examination. In a May 6,

2025 letter, this agency advised the appellant that any challenge to the mode of testing or the assigned scores was untimely. In that regard, the eligible list had issued on October 2, 2024, but the instant appeal was not filed until March 21, 2025, over five months later. *See N.J.A.C. 4A:2-1.1(b)* (appeal must be filed within 20 days after either appellant has notice or should reasonably have known of the decision, situation, or action being appealed). Notwithstanding the timeliness issue, it was noted that this agency determines the proper test mode. Specifically, *N.J.A.C. 4A:4-2.2* provides this agency with significant discretion regarding the types of examinations to be utilized to ascertain relative merit and fitness. In this case, it had been determined that a qualifying unassembled examination was the best test mode for this examination. Further, the appointing authority had selection discretion under the “Rule of Three” to appoint *equally ranked* eligibles absent any unlawful motive. *See N.J.A.C. 4A:4-4.8(a)3*. Here, as all eligibles were tied, all were reachable under the “Rule of Three.” As such, the record did not reveal any improper basis for the appellant’s nonappointment, such as discrimination or other invidious motive. This agency thus advised the appellant that the matter was considered closed.

Thereafter, on July 14, 2025, the appellant contacted this agency to contest the determination of his appeal. Specifically, he took issue with how the appointing authority determined to fill the position without conducting interviews.

## CONCLUSION

It is initially noted that the appellant’s pursuit of this appeal is untimely. After receipt of his original appeal, in a May 6, 2025 letter, this agency advised the appellant that the matter was considered closed. However, the record indicates that the appellant did not contact this agency in response to that letter until over two months later on July 14, 2025. Therefore, the appellant effectively did not request that this matter be reopened until well after 20 days from when he was advised of the decision that this matter was considered closed. *See N.J.A.C. 4A:2-1.1(b)*. The discussion below is thus for informational purposes only.

*N.J.S.A. 11A:4-8*, *N.J.S.A. 11A:5-6* and *N.J.A.C. 4A:4-4.8(a)3i* allow an appointing authority to select any of the top three interested eligibles on an open competitive list, provided that no veterans are on the list. Moreover, it is noted that the appellant has the burden of proof in this matter. *See N.J.A.C. 4A:2-1.4(c)*.

Since only non-veterans were listed on the certification, it was within the appointing authority’s discretion to select any of the top three interested eligibles on the certification for each vacancy filled. The appellant complains that no interviews were held. While appointing authorities are permitted to interview candidates and base their hiring decisions on the interview, interviews are not required. *See In the Matter of Nicholas R. Foglio* (CSC, decided February 22, 2012). It is within the appointing authority’s discretion to choose its selection method, *i.e.*, whether or not

to interview candidates. *See, e.g., In the Matter of Angel Jimenez* (CSC, decided April 29, 2009); *In the Matter of Abbas J. Bashiti* (CSC, decided September 24, 2008); *In the Matter of Paul H. Conover* (MSB, decided February 25, 2004); *In the Matter of Janet Potocki* (MSB, decided January 28, 2004). Moreover, the former Merit System Board has found that provisional experience is valuable and should not be overlooked in the selection process. *See In the Matter of Mahasen Adra-Halwani* (MSB, decided October 5, 2005). Thus, it is reasonable that if they were reachable under the “Rule of Three,” the appointing authority would want to permanently appoint its provisional appointees. *See In the Matter of Terrence Crowder* (CSC, decided April 15, 2009).

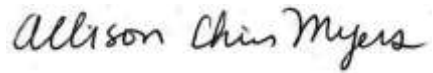
Additionally, even assuming, *arguendo*, that the appellant is more qualified for the position at issue, the appointing authority still has selection discretion under the “Rule of Three” to appoint an equally ranked eligible absent any *unlawful* motive. *See N.J.A.C. 4A:4-4.8(a)3; In the Matter of Nicholas R. Foglio, Fire Fighter (M2246D), Ocean City*, 207 N.J. 38, 49 (2011). *Compare, In re Crowley*, 193 N.J. Super. 197 (App. Div. 1984) (hearing granted for individual who alleged that bypass was due to anti-union animus); *Kiss v. Department of Community Affairs*, 171 N.J. Super. 193 (App. Div. 1979) (individual who alleged that bypass was due to sex discrimination afforded a hearing). Moreover, the appellant does not possess a vested property interest in the position. In this regard, the only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 N.J. Super. 494 (App. Div. 1990). The appellant has not presented any substantive evidence regarding his nonappointment that would lead the Commission to conclude that the bypass was improper or an abuse of the appointing authority’s discretion under the “Rule of Three.” Accordingly, a review of the record indicates that the appellant has not met his burden of proof in this matter.

### ORDER

Therefore, it is ordered that this appeal be denied.

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 13<sup>TH</sup> DAY OF AUGUST, 2025



---

Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: John Baird  
Ebonik Gibson  
Division of Agency Services  
Division of Human Resource Information Services  
Records Center