



STATE OF NEW JERSEY

In the Matter of M.M., Project
Engineer Structural Evaluation
(PS6437T), Department of
Transportation

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

CSC Docket No. 2026-24

Administrative Appeal

ISSUED: January 21, 2026 (HS)

M.M. appeals her nonappointment on the Project Engineer Structural Evaluation (PS6437T), Department of Transportation eligible list.

The appellant appeared as the eighth ranked non-veteran eligible on the subject eligible list, which promulgated on June 9, 2022 and expired on June 8, 2025. A complete certification, consisting of the names of three eligibles including the appellant, who was listed in the first position, was issued on May 7, 2025 (PS250780) with a disposition due date of August 8, 2025. However, upon disposition of the certification, the certification became incomplete, as one eligible was bypassed and the other eligible did not respond to the notice of certification. The appellant was the only “reachable” eligible, and her name was retained. The appointing authority made two provisional appointments to the subject title, effective July 12, 2025, which is reflected in the Personnel Management Information System.

On appeal to the Civil Service Commission (Commission), the appellant asserts that approval for a Project Engineer Structural Evaluation position, which needed to be backfilled as a critical need, came in mid-April 2025 and questions why the appointing authority waited three months to fill a safety-critical position. Additionally, the appellant identifies examples where the appointing authority made a permanent appointment from an incomplete certification and questions why she was not similarly treated. She also notes that at the time the two provisional appointments were made, the certification was still outstanding and she was still eligible at that time. For relief, the appellant requests to be permanently appointed

to the subject title and to remain in the Traffic Division to avoid retaliation from the Structural Evaluation Unit, where she previously experienced discrimination.¹

CONCLUSION

N.J.A.C. 4A:4-4.2(c)2 provides, in pertinent part, that an appointing authority shall be entitled to a complete certification for consideration in making a permanent appointment, which means, from a promotional list, the names of three interested eligibles for the first permanent appointment, and the name of one additional interested eligible for each additional permanent appointment. *N.J.S.A.* 11A:4-13b provides, in pertinent part, that provisional appointments may be made in the absence of a complete certification.

Since the certification became incomplete, the appointing authority was not required to permanently appoint the appellant from it. The appellant's reliance on instances of the appointing authority having made a permanent appointment from an incomplete certification is misplaced. Under *N.J.A.C.* 4A:4-4.2(c)2, the appointing authority in this matter was not required to make a permanent appointment from the incomplete certification. Nevertheless, the regulation does not strictly prohibit an appointing authority from making one either. In this regard, *N.J.A.C.* 4A:4-4.2(c)2i provides that when fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position/title. *N.J.A.C.* 4A:4-4.2(c)2ii provides that when fewer than three interested eligibles are certified and a provisional who is currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; or vacate the position/title. As can be seen, making a permanent appointment is merely one *option* an appointing authority has when presented with an incomplete certification. Moreover, the appellant was not serving provisionally in the subject title, so the appointing authority did not have to consider the option of permanently appointing her pursuant to *N.J.A.C.* 4A:4-4.2(c)2ii. Further, the appellant did not possess a vested property interest in the position. See *Nunan v. Department of Personnel*, 244 *N.J. Super.* 494, 497 (App. Div. 1990) (“[A] person who successfully passes an examination and is placed on an eligible list does not thereby gain a vested right to appointment”) (quoting *In re Crowley*, 193 *N.J. Super.* 197, 210 (App. Div. 1984)).

The appellant also complains that although approval for the positions came in mid-April 2025, the positions were not actually filled until three months later.

¹ In her appeal, the appellant also states that she has experienced “discrimination, harassment, and clear intentional actions taken against me based on my gender, age, and nationality” and that “[t]hese issues have already been documented and submitted to Civil Rights.”

However, as the Commission has observed and the appellant's disagreement notwithstanding, there is no provision in Civil Service law or rules that requires an appointing authority to fill a vacancy immediately upon its creation. *See In the Matter of Todd Sparks* (MSB, decided April 6, 2005); *In the Matter of Michael Shaffery* (MSB, decided September 20, 2006).

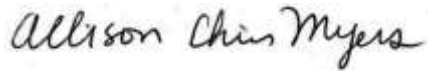
Finally, while the appellant asks to remain in the Traffic Division, reassignments are at the discretion of the appointing authority. *See N.J.A.C. 4A:4-7.2.*

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 21st DAY OF JANUARY, 2026



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