



STATE OF NEW JERSEY

In the Matter of S.J., Fire Official
(M0412G), Pleasantville

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

CSC Docket No. 2026-689

Bypass Appeal

ISSUED: February 25, 2026 (HS)

S.J. appeals his nonappointment on the Fire Official (M0412G), Pleasantville, eligible list.

As background, the subject examination was announced with a closing date of April 21, 2025 and was open to Pleasantville and Atlantic County residents who possessed a current and valid Fire Official certificate issued by the New Jersey Department of Community Affairs and five years of experience in one or more of the following areas or some combination thereof: (1) as a firefighter in a paid or volunteer fire company; (2) in the inspection of buildings to detect fire hazards and to enforce fire safety codes and regulations; (3) in the investigation of fires to determine their cause; (4) in the inspection of the construction of buildings and the review of building construction plans and specifications to ensure compliance with fire protection codes and regulations; and (5) in the installation of fire protection equipment. 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 two equally ranked non-veterans, A.B. and the appellant, promulgated on July 24, 2025 and expires on July 23, 2027. A certification, consisting of the names of both eligibles, was issued on July 28, 2025 (OL250958) to the appointing authority. In disposing of the certification, the appointing authority appointed, effective August 15, 2025, A.B., who had been serving provisionally in the subject title since August 5, 2024 according to the County and Municipal Personnel System (CAMPS). The appellant's name was retained on the eligible list.

On appeal to the Civil Service Commission (Commission), the appellant complains that A.B., though “well qualified,” was selected without an interview process. In this regard, he supplies a copy of a September 16, 2025 letter he received from the Fire Chief. This letter states, in part:

During our conversation on the firehouse apron, you asked why interviews had not been conducted for the Fire Official position. I explained that at present, [A.B.] has been fulfilling the duties of Fire Official for more than a year, and the City has not advised me of any change or need to conduct interviews for that role.

You also asked if we would be holding interviews. I again reiterated the previous point. In closing and at the guidance of the mayor, the position of Fire Official continues to be considered filled, with no directive to seek applicants at this time.

The appellant “believe[s] it to be part of the perpetual harassment and retaliation up to and including [his] contesting being bypassed” on the eligible list for Fire Captain (PM5034D), Pleasantville. *See In the Matter of S.J.* (CSC, decided February 26, 2025) (referring that matter to the Office of Administrative Law for a hearing as a contested case). He states that A.B. has had complaints filed against him by coworkers and provides copies of three such complaints.¹

In addition, the appellant relates that he inquired with this agency whether the Fire Official position can be occupied by a fire officer such as Fire Captain or Battalion Fire Chief. In this regard, A.B., per CAMPS, has also been serving in a Fire Captain position since July 15, 2024, having been appointed from the PM5034D list. Agency staff responded to the appellant’s inquiry as follows:

The Fire Official title falls under the Fire Prevention series, while the Firefighter titles are part of the Fire Suppression series. These are two distinct classification series. Assigning fire suppression titles to positions whose duties clearly align with fire prevention responsibilities constitutes a misclassification, which is a violation of *N.J.S.A. 11A:3-1* and *N.J.A.C. 4A:3-3.1(a)*.

If an employee is appointed to a Fire Prevention title (e.g., Fire Official), that becomes their official classification. While there are limited cases where dual titles or two job records may be appropriate, such arrangements are determined on a case-by-case basis and require separate announcements and examinations for each title through the NJCSC.

¹ There is no indication in the record if any of these complaints were substantiated.

Thus, the appellant proffers that the appointing authority violated merit and fitness and classification principles. See *N.J.S.A.* 11A:1-2a, *N.J.S.A.* 11A:3-1, and *N.J.A.C.* 4A:3-3.1(a).

The appointing authority was provided with the opportunity to respond, but it did not do so.

It is noted that CAMPS reflects two job records for A.B., one each for Fire Captain and Fire Official, respectively.

CONCLUSION

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. 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 he was reachable under the "Rule of Three," the appointing authority would want to permanently appoint its provisional appointee. See *In the Matter of Terrence Crowder* (CSC, decided April 15, 2009).

The appellant's identification of a few examples of complaints that have been filed against A.B., where there is no indication in the record if these complaints were ever substantiated and where the appellant concedes elsewhere in his appeal that A.B. was "well qualified," is not sufficient to demonstrate any abuse of the appointing authority's discretion. Similarly, it is insufficient for the appellant to rely on a mere "belie[f]" that his nonappointment was harassing and retaliatory, especially where a sound basis for A.B.'s selection – his provisional experience – exists in the record. Further, the appellant has not demonstrated entitlement to a remedy in this matter based on *S.J.*, *supra*. While the Commission determined there that a hearing was warranted based on the record, the same cannot be said here. The record in the

instant matter evinces no material dispute of fact that would necessitate a hearing. As such, the Commission is not compelled to order a hearing in this matter merely because it did so before.

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 such was improper or an abuse of the appointing authority’s discretion under the “Rule of Three.”

Finally, it is noted that CAMPS reflects two job records for A.B., one each for Fire Captain and Fire Official, respectively. There being no evidence in the record of any misclassification issue, Commission intervention is not necessary on that issue as well.

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 25TH DAY OF FEBRUARY, 2026

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