



STATE OF NEW JERSEY

In the Matter of Assistant Business
Administrator (M0543C), Borough of
Roselle

CSC Docket No. 2025-1384

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

Appointment Waiver

ISSUED: July 1, 2026 (AMRG)

The Borough of Roselle (Roselle) requests permission not to make an appointment from the March 28, 2022 certification for Assistant Business Administrator (M0543C).

The record reveals that Roselle provisionally appointed Everett Falt, pending open competitive examination procedures, to the subject title, effective July 9, 2020. An examination was announced with a closing date of October 21, 2021, that resulted in a list of three eligibles that promulgated on March 24, 2022 and expired on March 23, 2024. Agency records indicate that Falt was separated from his employment with Roselle, effective November 19, 2021. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On March 28, 2022, the names of all three eligibles were certified (OL22035) from the subject eligible list. The appointing authority returned the subject certification and requested a waiver of the appointment requirement, stating that it was not making any appointments from the subject certification due to ongoing restructuring aimed at streamlining operations efforts within Roselle. However, it asserted that it would endeavor to utilize this title in the future. It is noted that the subject eligible list expired on March 23, 2024, ten months after the appointing authority requested a waiver of appointment, and no appointments were made.

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 \$2,048. Despite the opportunity,

the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

Agency record reveal that no other employees were recorded as serving provisionally, pending open-competitive examination procedures, prior to the expiration date of the subject list.

CONCLUSION

Initially, in examining the legislative history of *N.J.S.A. 11A:4-5*, in *Local 198 of I.A.F.F. v. Atlantic City*, Docket No. A-855-88T1F (App. Div. June 14, 1989), the court stated that this agency is required to issue a certification automatically where there is a provisional appointee or a vacancy. Moreover, the court concluded that *N.J.S.A. 11A:4-5* unambiguously stated that once the examination process has been initiated due to the appointment of a provisional employee, the appointing authority must make an appointment from the eligible list if there is a complete certification. Additionally, the court found that this agency was correct in interpreting *N.J.S.A. 11A:4-5* to find that it was a clear legislative response to pervasive violations of Title 11A, and that non-compliance with this statute is not a mere technical violation, but rather it undermined the purpose and intent of the constitutionally-based merit selection system. The court found that in circumstances such as these, it was appropriate to order the appointing authority to make an appointment. Thus, there is no doubt that the appointing authority must make an appointment from this list if there is a complete certification, that is, one containing the names of at least three interested and eligible candidates. Moreover, the Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2. See In the Matter of Fiscal Analyst (M1351H), Jersey City*, Docket No. A-4347-87T3 (App. Div. February 2, 1989).

Therefore, 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 appointing authority's appointment of a provisional employee. However, after a complete certification was issued, the appointing authority requested an appointment waiver stating that it was not making any appointments from the subject certification due to ongoing restructuring within Roselle. Moreover, it is noted that Falt was separated from his employment with Roselle effective November

19, 2021. Thus, in conjunction with the fact that there were no provisionals serving at that time of the disposition of the subject certification, there is 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 appointing authority did not take any action to obviate the need for the examination at the time of the announcement or prior to its processing. Additionally, although it asserted that it would endeavor to utilize this title in the future, it is noted that the subject eligible list had already expired on March 23, 2024, prior to the instant request, and thus no future appointments can be made. Under these circumstances, there is no basis on which to waive the selection costs. Therefore, although an appointment waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 1ST DAY OF JULY, 2026



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