

B-33



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Assistant Fiscal
Officer (C0835T), Burlington County
Board of Social Services

Appointment Waiver

CSC Docket No. 2017-416

ISSUED: **MAR 15 2017** (ABR)

The Burlington County Board of Social Services requests permission not to make an appointment from the April 15, 2016 certification for Assistant Fiscal Officer (C0835T).

The record reveals that the appointing authority requested an open-competitive examination for the subject title, which generated an examination announcement with a closing date of November 18, 2015. The resulting eligible list of eight names promulgated on April 14, 2016 and expires on April 13, 2019. 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 April 15, 2016, the names of eight eligibles were certified to appointing authority from the eligible list. Subsequently, the appointing authority returned the certification and requested an appointment waiver and a waiver of the selection costs.

In requesting an appointment waiver and a waiver of the selection costs, the appointing authority cited unforeseen budgetary constraints and it noted its intention to use the subject eligible list once its finances allow it to do so. The appointing authority explained that it faced an unforeseen financial burden after its Director began an extended paid medical leave of absence of an indefinite duration, effective March 15, 2016, and it needed to immediately appoint a replacement to the title of Director on an interim basis. Additionally, the appointing authority indicated that it had originally requested an examination for the subject title with a belief that its current Fiscal Officer would be retiring in 2017 and that an

immediate appointment to the title of Assistant Fiscal Officer was necessary to ensure that an individual would be eligible to advance to the title of Fiscal Officer upon the incumbent's retirement. However, the appointing authority has since learned that its current Fiscal Officer intends to defer his retirement for several years; thereby obviating the pressing need to appoint an eligible to the title of Assistant Fiscal Officer. The appointing authority anticipates that it will be able to request another certification for the subject title once its budgetary issues are resolved and it expects that to occur prior to the expiration of the subject eligible list on April 13, 2019.

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 \$2,048.00. In response, the appointing authority reiterates its arguments.

A review of agency records indicates that there are currently no employees serving in the subject title within the appointing authority.

CONCLUSION

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 for a list 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 by the Civil Service Commission for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated at the request of the appointing authority. However, after a complete certification was issued, the appointing authority requested an appointment waiver. It stated that due to financial constraints it could not make a permanent appointment at this time. Specifically, after its Director began a paid medical leave of indefinite duration, effective March 15, 2016, the immediate need to hire an interim Director created an unexpected financial burden. Moreover, its Fiscal Officer's decision to postpone his retirement for several years has deferred the appointing authority's necessity to appoint an eligible to the title of Assistant Fiscal Officer, particularly given its current fiscal challenges. Under these circumstances, the appointing authority has presented adequate justification for granting an appointment waiver.

Although the appointment waiver is granted, 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 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, effort and money to take these examinations in hopes of being considered for a permanent appointment. However, the appointing authority indicates that it may utilize the subject list prior to its expiration date of April 13, 2019. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event the appointing authority fails to utilize the list by its expiration date of April 13, 2019, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for the waiver of appointment be granted and no selection costs presently be assessed.

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 MARCH, 2017

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Charles Sanfilippo
Kelly Glenn
Diane Lukasewycz



B-33

Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312
Telephone: (609) 292-2435 Fax: (609) 984-0442

Robert M. Czech
Chair/Chief Executive Officer

March 21, 2017

Charles Sanfilippo
Burlington County Board of Social Services
795 Woodlane Road
Mount Holly, New Jersey 08060-3335

Re: Assistant Fiscal Officer (C0835T); Burlington County Board of Social Services; Appointment Waiver; CSC Docket No. 2017-416

Dear Mr. Sanfilippo:

Enclosed is a corrected copy of page 3 of the Civil Service Commission's March 9, 2017 decision regarding the Burlington County Board of Social Services' request for permission not to make an appointment from the April 15, 2016 certification for Assistant Fiscal Officer (C0835T). The decision you previously received omitted the signature of Robert M. Czech, Chairperson of the Civil Service Commission. Therefore, please substitute the enclosed page 3 with the one in the decision already received. If you have any questions or concerns regarding the information being sent to you, please call the number listed above.

Sincerely,

A handwritten signature in cursive script that reads "Adam B. Reich".

Adam B. Reich
Personnel and Labor Analyst

Enclosure

c: Kelly Glenn
Diane Lukasewycz ✓
Records Center

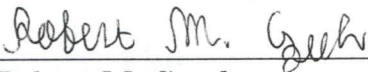
primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. However, the appointing authority indicates that it may utilize the subject list prior to its expiration date of April 13, 2019. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event the appointing authority fails to utilize the list by its expiration date of April 13, 2019, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for the waiver of appointment be granted and no selection costs presently be assessed.

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 MARCH, 2017



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Charles Sanfilippo
Kelly Glenn
Diane Lukasewycz