



STATE OF NEW JERSEY

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

In the Matter of Woodbridge Fire
Districts 8, 11 and 12

CSC Docket Nos. 2019-517
2019-402
2019-514

Administrative Appeals

ISSUED: January 22, 2019 (RE)

Woodbridge Fire Districts 8, 11 and 12, represented by Richard Braslow, Esq., appeal the determinations of the Division of Agency Services (Agency Services) regarding providing appointments to various individuals who were identified as paid employees. These appeals are being consolidated due to common issues.

By way of background, various union representatives called to the attention of Civil Service Commission (Commission) staff that there were want ads placed by Woodbridge Fire Districts for per diem Firefighters. A union representative then provided a list of individuals purported to be working in the various districts. When contacted, these Districts declined to comment, indicating that they believed they were not under civil service jurisdiction. Agency Services then provided these lists to Woodbridge Fire Districts 8, 11, and 12 and instructed each District that they operate under the provisions of the Civil Service Act, *N.J.S.A. Title 11A*. It indicated that in *Oughton v. Board of Fire Commissioners* 178 *N.J. Super.* 633 (Law Div. 1980) Aff'd 178 *N.J. Super.* 565 (App. Div. 1981), the court found that a fire district operating within a Civil Service jurisdiction was also under the purview of the Civil Service. As such, Woodbridge Township Fire Districts are subject to the provisions of the Civil Service Act. Agency Services requested each district to enter employee information in the County and Municipal Personnel System (CAMPS) within 30 days. Woodbridge Fire District 8 was provided with three names. Woodbridge Fire District 11 was informed that Agency Services was aware of recruitment efforts for Firefighters, and indicated that it employed a part-time paid Fire Inspector and a Fire Official. Woodbridge Fire District 12 was provided with eleven names.

Each of the Woodbridge Fire Districts appealed Agency Services' determinations. Woodbridge Fire District 8 responded that it has no paid employees, and the three referenced individuals are not employed or compensated by it. Official records indicate that Woodbridge Fire District 8 employs a part-time Fire Official.

Woodbridge Fire District 11 acknowledged that it has a Fire Official and a Fire Inspector, and agreed in August 2018 to add them to CAMPS, but has not yet done so. It also explained that it hires individuals at the hourly rate of \$15.00 to perform various activities *including firefighting as necessary*. These individuals do not work constant or regular hours, but provide services on an "as needed" basis. Woodbridge Fire District 11 indicates that it relied on verbal advice from Commission staff that adding these individuals to CAMPS was unnecessary.

Woodbridge Fire District 12 acknowledged that it has a Fire Official and a Fire Inspector, two on the list of eleven names, and indicated that it added them to CAMPS. Official records show the employment of a Fire Official, two Fire Prevention Specialists and a Custodial Worker. One of the Fire Prevention Specialists was referred to as the "Fire Inspector." Woodbridge Fire District 12 indicated that one of the eleven named individuals did not provide any services. However, of the nine remaining names, Woodbridge Fire District 12 indicated that it compensated them, on an hourly basis, for answering phones, making and accepting deliveries, cleaning the firehouse, and delivering firetrucks and vehicles to garages for maintenance and repairs. It indicated that *when* responding to fires, these individuals respond as uncompensated volunteers. It also states that it relied on verbal advice from Commission staff that adding these individuals to CAMPS was unnecessary due to the nature and frequency of the services.

CONCLUSION

Pursuant to *Oughton, supra*, Woodbridge Fire Districts have long been subject to the provisions of Title 11A. Thus, positions in the Woodbridge Fire Districts should be classified by the appropriate career service or unclassified title in the State Classification plan. Additionally, the Commission has the power and duty to implement and administer the State Classification plan including classifying new positions. *See N.J.A.C. 4A:3-3.3.*

In the instant matter, Woodbridge Fire District 8 responded that the three referenced individuals are not employed or compensated by it, and Woodbridge Fire District 12 indicated that there is one individual who is not employed by it. In this respect, the Fire District is cautioned that it must record *any* employee in CAMPS upon hiring, whether for firefighting duties or other duties. Woodbridge Fire District 11 explained that it hires individuals to perform various activities including firefighting as necessary. The difference between volunteer and paid Fire Fighters is set by statute. Volunteers may be reimbursed for substantiated losses or expenses,

but are not compensated for work performed. Woodbridge Fire District 12 indicated that it compensated individuals for answering phones, making and accepting deliveries, cleaning the firehouse, and delivering firetrucks and vehicles to garages. If a Fire District regularly assigns work to individuals in positions that it compensates, as civil service jurisdictions, the duties of those positions must be classified by either career service or unclassified titles. After a title is determined to classify the duties of an employee's position, his or her appointment must be recorded in CAMPS. If the subject Fire Districts cannot determine an appropriate title, it must contact Agency Services who will perform classification reviews and determine the appropriate title and appointment type for each position, regardless of the frequency and the nature of the position.

The Fire District's failure to record these appointments is particularly egregious with regard to public safety, including any duties used by the fire service for rescue, fire suppression, and related activities, for which only regularly appointed Firefighters can be compensated. 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), Newark, Docket No. A-4347-87T3 (App. Div. February 2, 1989).* If a Woodbridge Fire District fails to comply with this order, on the 31st day it shall be assessed a fine of \$100 a day for each day of continued violation up to the maximum amount of \$10,000. Further, if at any time a Woodbridge Fire District compensates individuals who are not regularly appointed Firefighters for firefighting, it shall be subject to fines and other penalties. Therefore, the subject Fire Districts are ordered to enter employee information in CAMPS within 30 days of the issuance date on this order.

ORDER

Therefore, it is ordered that these appeals be denied. It is further ordered that Woodbridge Fire Districts 11 and 12 record various employees into CAMPS within 30 days of the issuance date on this order. Additionally, Woodbridge Fire District 11 or any other Woodbridge Fire District must cease to provide payment for firefighting services to individuals who are not regularly appointed Firefighters.

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 16th DAY OF JANUARY, 2019



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