



STATE OF NEW JERSEY

In the Matter of County Correctional
Police Officers, Essex County

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

CSC Docket Nos. 2022-2861 and 2022
2893

Request for Administrative Relief

ISSUED: MAY 23, 2022(ACM)

Essex County requests permission to make temporary appointments of entry-level County Correctional Police Officers.

By way of background, Essex County states that at a recent Wardens Conference, it learned that the Civil Service Commission (Commission) permitted other County Correctional facilities throughout the State to make temporary appointments to the County Correctional Police Officer title due to emergent staffing shortages prior to the July 18, 2022 effective date of *P.L. 2021, c. 406*, which permits exempting the requirement to take a competitive examination for entry-level law enforcement positions. Believing that permission was granted to all County Correctional facilities to make these temporary appointments, Essex County began the process of performing background checks and interviewing potential candidates for its vacant County Correctional Police Officer positions. In this regard, Essex County indicates that it has made offers of employment to 41 individuals who were scheduled to start training on May 16, 2022. In its request, Essex County presents that its County Correctional facility continues to face a severe shortage of County Correctional Police Officers and is in dire need of hiring additional officers to adequately and safely staff the correctional facility. In this regard, Essex County states that 108 current staff members are on intermittent Family and Medical Leave Act (FMLA) leave; 15 staff members are on consecutive FMLA/Americans with Disabilities Act leave; 11 staff members are out of work due to being injured on the job; and three staff members are on military leave. Therefore, approximately 80 vacancies exist that urgently need to be filled. Additionally, given the fact that COVID-19 is on the rise again, Essex County is concerned that it will face systemic staffing issues like what occurred during the height of the pandemic due to staff

members calling out sick. Essex County explains that this can result in mandated overtime, which results in exhaustion and potential disciplinary issues. Under these circumstances, Essex County requests permission to make temporary appointments to the title of County Correctional Police Officer in accordance with *N.J.A.C. 11A:4-13(c)*.

In correspondence dated May 6, 2022, the Essex County Superior Officers' Association (Association), advises that Essex County appears to have been hiring County Correctional Police Officers prior to the July 18, 2022 effective date of *P.L. 2021, c. 406*. It also states that there has been no indication in the publicly posted meeting agendas of the Essex County Board of Commissioners that an ordinance or resolution authorizing hiring in accordance with *P.L. 2021, c. 406* was ever introduced, let alone adopted. The Association requests that the Commission intervene in this matter as Essex County should not be permitted to disregard the law.

It is noted that a review of agency records indicates that the last two certifications of the eligible list for County Correctional Police Officer were issued on May 18, 2020 and September 27, 2021. The May 18, 2020 certification (OL200464) contained 1,000 names which resulted in 113 permanent appointments. Of the remaining eligibles on that certification, 138 indicated that they were not interested in the position and 749 were removed from the list for various reasons. The September 27, 2021, certification (OL210902) contained 500 names which resulted in 31 permanent appointments. Of the remaining eligibles on this certification, which was recorded as disposed on April 1, 2022, 46 indicated that they were not interested in the position and 423 were removed from the list for various reasons.

CONCLUSION

Initially, the Commission acknowledges the concerns of the Association. However, for reasons set forth below, the Commission grants Essex County permission to make temporary appointments to County Correctional Police Officer effective May 16, 2022.

N.J.S.A. 11A:4-13(c) states:

Temporary appointments may be made, without regard to the provisions of this chapter, to temporary positions established for a period aggregating not more than six months in a 12-month period as approved by the [Civil Service Commission]. These positions include, but are not limited to, seasonal positions. Positions established as a result of a short-

term grant may be established for a maximum of 12 months. Appointees to temporary positions shall meet the minimum qualifications of a title.

N.J.S.A. 52:17B-68.1(b) provides:

A person shall be given a probationary appointment as a corrections officer or as a juvenile detention officer for a period of one year so that the person seeking permanent appointment may satisfactorily complete a basic training course for corrections officers or for juvenile detention officers conducted at a school approved by the Police Training Commission. The probationary time may exceed one year for those persons enrolled within the one-year period in a basic training course scheduled to end after the expiration of the one-year period. A person shall participate in a basic training course only if that person holds a probationary appointment and that person shall be entitled to a leave of absence with pay to attend a basic training course.

Further, on January 18, 2022, *P.L. 2021, c. 406* was signed by the Governor and is scheduled to become effective July 18, 2022. *P.L. 2021, c. 406* significantly amended *N.J.S.A. 11A:4-1.3* concerning exempting the requirement to take a competitive examination for entry-level law enforcement positions. Germane to the instant request, *N.J.S.A. 11A:4-1.3* was amended to read as follows:

The Civil Service Commission shall exempt from the requirement to take an examination for an entry-level law enforcement officer position, entry-level sheriff's officer position, or entry-level State or county correctional police officer position a person who successfully completes a full Basic Course for Police Officers training course or a full Basic Course for Correction Officers training course at school approved and authorized by the New Jersey Police Training commission within nine months from the date of hire as a **temporary entry-level officer under the provisions of this section**. (Emphasis added).

Given these provisions, it is beneficial to discuss the statutory and regulatory basis on which appointments are made to the title of County Correctional Police Officer for those appointing authorities under the jurisdiction of Title 11A. As set forth above, while *N.J.S.A. 52:17B-68.1(b)* provides that a person shall be given a probationary appointment for the purposes of completing the basic training course for County Correctional Police Officers, "probationary appointments" are not a recognized appointment type under Civil Service law or rules. See *N.J.S.A. 11A:4-13*. Since probationary appointments are not defined under Civil Service law and rules, the long-standing practice has been that appointments to the County Correctional Police Officer title are made as regular appointments from an eligible list developed as a result of a competitive examination. In this regard, it must be

emphasized that a regular appointment is defined as the employment of a person to fill a position in the competitive division of the career service upon examination and certification. *See N.J.A.C. 4A:1-1.3*. A permanent employee is defined as an employee in the career service who has acquired the tenure and rights resulting from **regular appointment and successful completion of the working test period**. *See N.J.A.C. 4A:1-1.3*. Unique to entry-level law enforcement titles such as County Correctional Police Officer, regular appointees do not begin the 12-month working test period until notification is received from the appointing authority from the Police Training Commission that the employee successfully completed the required police training course. *See N.J.A.C. 4A:4-5.2(d)1*. This process harmonizes the statutory requirements of a probationary appointment for purposes of the Police Training Act and the selection and appointment requirements under Title 11A.

However, recent amendments to *N.J.S.A. 11A:4-1.3* provide an alternative process to the above-described procedures by permitting appointing authorities to make “temporary appointments,” in this case, to County Correctional Police Officer, for the purpose of sending those employees to the Basic Course for Correction Officers. As noted earlier, *N.J.S.A. 11A:4-13(c)* provides that temporary appointments can be made without regard to the provisions of Title 11A for up to six months. Further, a temporary appointment is significantly similar to a probationary appointment for the purposes of appointees to complete the Basic Course for Correction Officers. Most significant, 1,500 eligibles have been certified to Essex County since May 2020 but only 144 appointments have been made and the remaining eligibles indicated that they were not interested or were removed from the eligible list. Thus, Essex County has utilized the existing list up to the point in time where several other correctional facilities throughout the State were granted permission by the Commission to make temporary appointments. Moreover, although names are available on the (S9999A) eligible list for appointment consideration, even assuming Essex County requested another certification on April 2, 2022, the day after the last certification was recorded as disposed, it would not have a disposition due date until October 3, 2022.

Furthermore, temporary appointments under current Civil Service law and rules are not specifically proscribed for County Correctional Police Officers, and *P.L. 2021, c. 406* which provides for such temporary appointments will become effective July 18, 2022. Given the severe staffing shortage of at least 80 officers and the significant public safety concern these staffing levels engender, and in light of the certification issues noted above, it is appropriate to permit Essex County to make temporary appointments to the title of County Correctional Police Officer until *P.L. 2021, c. 406* becomes effective on July 18, 2022. Additionally, temporary appointees who complete the full Basic Course for Correction Officers prior to the effective date of *P.L. 2021, c. 406* may have their appointments recorded as regular appointments, in accordance with Commission action, subject to completion of a 12-month working test period. Although an ordinance is not required to make temporary appointments in accordance with *N.J.S.A. 11A:4-13(c)*, the Commission reminds Essex County, as

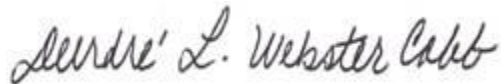
the Association highlights, that it will need to pass an ordinance or resolution in compliance with *P.L.* 2021, c. 406 to make such appointments after July 17, 2022. Finally, the Commission emphasizes that best practices in diversity and inclusion should be utilized when recruiting and appointing to positions under this authority.

ORDER

Therefore, it is ordered that the request be granted.

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 18TH DAY OF MAY, 2022



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