



STATE OF NEW JERSEY

In the Matter of Program  
Nutritionist (M0219M), Jersey City

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-1393

Request for Enforcement

ISSUED: JUL 18 2014 (CAG)

The Division of Classification and Personnel Management (CPM) requests that Jersey City be ordered to return the October 25, 2012 certification (OL121441) of the eligible list for Program Nutritionist (M0219M), Jersey City for proper disposition.

By way of background, Jersey City provisionally appointed Laura Macey [Brois], Palak Vyas, and Samantha Kaoutarani, pending open-competitive examination procedures, to the title of Program Nutritionist effective September 6, 2005, August 17, 2009, and November 5, 2009, respectively. These provisional appointments generated an examination announcement (M0219M) for the subject title with a closing date of April 12, 2010, which resulted in a list of six eligibles that promulgated on July 1, 2010 and expired on June 30, 2013. The examination was administered as a qualifying unassembled examination and all eligibles were ranked number one on the list. A certification was issued and consisted of six eligibles and one eligible was appointed. A second certification was issued and consisted of four eligibles. Jersey City returned the certification indicating that one eligible was interested, but no appointment would be made since the certification was incomplete.

Jersey City also provisionally appointed Maida Valentin, Christina Villanueva, and Flor Onorato, pending open-competitive examination procedures, to the title of Program Nutritionist effective June 7, 2010, August 22, 2011, and July 9, 2012, respectively. It is noted that Valentin, Villanueva, and Onorato did not apply for the examination.

Thereafter, Corinne Bocchieri, the eligible listed in the first position on the certifications, contacted CPM and indicated that she was interested in a provisional appointment. As a result, a third certification (OL121441), consisting of Bocchieri's name, was issued on October 25, 2012. Jersey City returned the certification and indicated that no appointment would be made. However, all three provisional appointees remained. CPM returned the certification, notifying Jersey City that, pursuant to *N.J.A.C. 4A:4-4.2*, since Bocchieri indicated her interest in a provisional appointment, it was required to make an appointment or remove the provisional employees from the subject title. However, Jersey City failed to return the certification as required. Subsequently, CPM referred the matter to the Civil Service Commission (Commission) for enforcement.

The appointing authority was notified that the matter had been referred to the Commission for enforcement and it was advised that since Bocchieri had indicated that she was interested in the provisional appointment, it must either provisionally appoint her to the subject title or vacate both provisional positions. See *N.J.A.C. 4A:4-4.2(c)2i*. Jersey City was also advised that any failure on its part to return the certification with the necessary changes could subject it to the assessment of costs, charges and fines pursuant to *N.J.A.C. 4A:10-2.2(b)*.

Despite several opportunities to do so, Jersey City has not returned the certification as requested nor has it submitted any additional information. Personnel records reveal that Onorato and Villanueva were separated from their provisional appointments effective September 16, 2013 and October 11, 2013, respectively. However, Valentin continues to serve provisionally in the subject title.

### CONCLUSION

In the instant matter, although Bocchieri has indicated her interest in the provisional appointment, Jersey City has failed to either provisionally appoint her or vacate Valentin's position. *N.J.S.A. 11A:4-8* and *N.J.A.C. 4A:4-4.2(c)2i* provide that when fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position/title. Consequently, Jersey City must either provisionally appoint Bocchieri, provide a legitimate reason for her removal from the eligible list, or remove Valentin from the subject position.

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, Jersey City is ordered to return the certification within 30 days of issuance of this decision either provisionally appointing Boccieri, providing a legitimate reason for her removal from the eligible list, or removing Valentin from the subject position. If, at any time, Jersey City does not adhere to the timeframes for the proper certification disposition without an approved extension of time, it shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

### ORDER

Therefore, it is ordered that Jersey City properly dispose of the October 25, 2012 certification (OL121441) of the eligible list for Program Nutritionist (M0219M) within 20 days of receipt of this decision.

Furthermore, the Commission orders that the costs incurred by this agency in the compliance process be assessed against Jersey City in the amount of \$1,000, pursuant to *N.J.S.A.* 11A:10-3 and *N.J.A.C.* 4A:10-3.2(a)5, to be remitted within 30 days of issuance of this decision.

If no proper disposition is made within 30 days of issuance of this decision, without an approved extension of time, the Commission orders that Jersey City be assessed a fine in the amount of \$1,000 for its failure to properly dispose of the certification. Thereafter, Jersey City shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

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 16<sup>TH</sup> DAY OF JULY 2014



Robert M. Czech

Chairperson

Civil Service Commission

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and  
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