



STATE OF NEW JERSEY

In the Matter of Project Specialist
and Project Support Specialist,
Department of Health

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2019-977

Request for Title Reallocation

ISSUED: DECEMBER 6, 2018 (SLK)

The Division of Agency Services (Agency Services), on behalf of the Department of Health, requests that various titles be placed in the non-competitive division of the career service on an interim basis.

By way of background, the Civil Service Commission (Commission) previously approved the Department of Health's request to utilize the unclassified titles of Project Specialist and Project Support Specialist for a period of up to two years, with extensions, in order to develop and implement the State's Medical Marijuana Program. *See In the Matter of Project Specialist and Project Support Specialist* (CSC, decided November 22, 2011). Thereafter, the Department of Health indicated that the progress of the program had allowed for specific duties and responsibilities to evolve and the positions could now be classified by using career service titles. Agency Services supported the conversion, but it recommended that interim appointments be made for a period of three years or until the federal statute regarding marijuana is enforced or changed. Upon review, the Commission found that the positions could not be placed in the unclassified service, since, among other reasons, merit and fitness for appointment in or promotion to the titles could be determined by examination, and permanent appointments could be made. However, there was no anticipated end date for the program and there was uncertainty in light of federal law prohibiting the use of marijuana. The Commission thus found it prudent to allow interim appointments to be made, as it would provide the appointing authority with maximum flexibility needed to address any adverse circumstances, as well as to provide a foundation as to the appropriate

titles to be used once the program was more established. It noted that if the program was still operational at the end of the three-year period, Agency Services was to petition the Commission with its recommendation as to the appropriateness of effecting regular appointments by designating the proposed titles as non-competitive on an interim basis in order for the program employees to achieve permanent status. *See In the Matter of Project Specialist and Project Support Specialist* (CSC, decided July 15, 2015).

Based on recent legislation, it is anticipated that the program will continue to grow and remain in place. Hence, Agency Services supports the Department of Health's request that the Agency Services Representative 3 (56360, A14), Database Analyst 2 (53003, P27), Public Health Representative 1 (62926, R24), Investigator 1 (56774, R25), Supervising Public Health Representative (62928, S27), and Program Manager Health/Human Services (61640, &32) titles be placed in the non-competitive division of the career service on an interim basis. The reallocation of these titles will allow the Department of Health to ensure position classification, and avoid any negative impact on the employees.

Additionally, Agency Services requests the relaxation of criteria outlined in *N.J.A.C.* 4A:3-1.2(c) in order to allocate the above referenced titles to the non-competitive division of the career service on an interim basis, for one pay period, in order to effectuate the appointment of the 15 (see attached) employees into the appropriate titles as listed above.

Further, Agency Services' indicates that, in accordance with *N.J.A.C.* 4A:3-3.3(f), the affected negotiations representatives, International Brotherhood of Electrical Workers (IBEW) on October 22, 2018, and the Communications Workers of America (CWA) on September 4, 2018, were notified of the request to reallocate the above stated titles to the non-competitive division on an interim basis. No comments from the unions have been received.

CONCLUSION

N.J.A.C. 4A:3-1.2(c) provides that a job title may be placed in the noncompetitive division on an ongoing or interim basis when it is determined by the Commission that it is appropriate to make permanent appointments to the title and one or more of the following criteria are met.

1. Competitive testing is not practicable due to the nature of the knowledge, skills, and abilities associated with the job;
2. Certification procedures based on ranked eligible lists have not or are likely have not or likely to meet the needs of appointing authorities due to

such factors as salary, geographic location, recruitment problems, and working conditions; or

3. There is a need for immediate appointments arising from a new legislation program or major agency reorganization.

N.J.A.C. 4A:3-3.3(f) provides that, in State service, the agency representative shall provide notice to affected and potentially affected negotiations representatives upon submission of certain changes to the State Classification Plan to the appropriate Commission representative.

N.J.A.C. 4A:1-1.2(c) provides that the Commission may relax rules for good cause in a particular situation in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the instant matter, the Department of Health seeks approval to reallocate the Agency Services Representative 3 (56360, A14), Database Analyst 2 (53003, P27), Public Health Representative 1 (62926, R24), Investigator 1 (56774, R25), Supervising Public Health Representative (62928, S27), and Program Manager Health/Human Services (61640, &32) titles to the non-competitive division of the career service on an interim basis. Based on recent legislation, it is anticipated that the State's Medical Marijuana Program will continue to grow and remain in place. Hence, Agency Services supports the request. Further, the Commission is mindful of the history of these positions and the fact that valued and experienced employees could be displaced if subject to an open-competitive examination process. Additionally, the affected negotiations representatives were given notice of this request in accordance with *N.J.A.C.* 4A:3-3.3(f); however, no comments were from the unions have been received. Therefore, the Commission grants Agency Services' request to relax the criteria outlined in *N.J.A.C.* 4A:3-1.2(c) in order to allocate the above referenced titles to the non-competitive division of the career service on an interim basis, for one pay period, in order to effectuate the appointment of the 15 employees into the appropriate titles. It is noted that the employees would need to serve current working test periods, since appointments cannot become permanent until successful completion of a working test period pursuant to *N.J.A.C.* 4A:4-5.1, *et seq.* Further, this decision is based on the unique facts of this case and does not set a precedent for any other case.

ORDER

It is ordered that the specified titles within the State's Medical Marijuana Program be reallocated to the non-competitive division title of the career service on an interim basis, for one pay period, in order to effectuate the appointment of the 15 employees into the appropriate titles. It is further ordered that such actions be effective the first pay period following the Commission's approval.

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 5th DAY OF DECEMBER, 2018



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Chairperson
Civil Service Commission

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and
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Last Name	First Name	Position Number	CSY-Name Title Abbreviated	Title Code	Salary Range Code	EEO Code	Total Salary Amount	Payroll Number
BABIJ	DANIEL	050583	AGNCY SVCS REP 3	56360	A 14	F	\$45,416.15	267
BARACIA	JAMES	009839	SPVG PUBL HLTH REP	62928	S 27	B	\$67,714.29	267
BLACK	HEATHER	054729	AGNCY SVCS REP 3	56360	A 14	F	\$40,246.37	267
CARSON	SUSAN	068461	PROG MGR HLTH/HS	61640	& 32	A	\$108,992.31	267
FALLON	MICHAEL	009562	INVSTGR 1	56774	R 25	B	\$80,724.33	267
GORDON	FRED	009441	PUBL HLTH REP 1	62926	R 24	B	\$71,442.27	267
HEALEY	KEVIN	054984	INVSTGR 1	56774	R 25	B	\$87,820.13	267
LEHR	JESSICA	055918	AGNCY SVCS REP 3	56360	A 14	F	\$43,692.89	267
LOBLEIN	FREDERICK	096353	INVSTGR 1	56774	R 25	B	\$71,872.11	267
MELNICKI	KATHERINE	009708	SPVG PUBL HLTH REP	62928	S 27	B	\$80,470.41	267
SELVARAJ	NAGALAKSH	071236	DTABSE ANLT 2	53003	P 27	B	\$93,226.53	267
VAJIPEY	VISAKHA	055142	DTABSE ANLT 2	53003	P 27	B	\$91,838.25	267
VIERBUCHEN	JOHN	071216	INVSTGR 1	56774	R 25	B	\$65,970.63	267
WALKER	GLENN	067568	AGNCY SVCS REP 3	56360	A 14	F	\$40,246.37	267
ZINNI	AMANDA	009471	AGNCY SVCS REP 3	56360	A 14	F	\$40,246.37	267
	Count:	15						