



B-009

STATE OF NEW JERSEY

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

In the Matter of Superintendent
Recreation (M0096U), Town of
Morristown

Appointment Waiver

CSC Docket No. 2018-2419

ISSUED: April 20, 2018 (AMR)

The Town of Morristown requests permission not to make an appointment from the August 8, 2016 certification for Superintendent Recreation (M0096U).

The record reveals that the Town of Morristown provisionally appointed Amanda Applegate, pending open competitive examination procedures to the subject title, effective March 2, 2015. An examination was announced with a closing date of February 19, 2016 that resulted in a list of three eligibles with an expiration date of August 3, 2018. It is noted that Applegate is no longer serving as a Superintendent Recreation and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. Specifically, it explained that due to the retirement of the Director of Public Works, coupled with various staffing and budgetary changes, the Superintendent of Public Works and the Acting Director of Public Works are currently overseeing the Recreation Division. Therefore, they no longer have the need nor the budget to maintain a position in that title.

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.

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 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 for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Amanda Applegate, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that due to various staffing and budget constraints, and the fact that the Superintendent of Public Works and the Acting Director of Public Works are currently overseeing the Recreation Division, the Superintendent Recreation position was no longer warranted. In conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, 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 for 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, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that it no longer needs to maintain the position of Superintendent Recreation after it requested an examination for the subject title does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 APRIL , 2018



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