



**STATE OF NEW JERSEY**

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

In the matter of Social Worker  
Institutions, Bilingual in Spanish  
and English (C0840V), Middlesex  
County

CSC Docket No. 2019-1634

Appointment Waiver

**ISSUED: APRIL 22, 2019 (JET)**

Middlesex County requests permission not to make an appointment from the certification for Social Worker Institutions, Bilingual in Spanish and English (C0840V), Middlesex County (title code 04596).

By way of background, Justin Serrano was provisionally appointed to the subject title on November 21, 2017. Nine applicants, including Serrano, were admitted to the examination which was processed as a qualifying examination, *i.e.*, applications who met the announced requirements were given the same score, except veterans are ranked first. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. The resulting list of nine eligibles promulgated on May 31, 2018 and will expire on May 30, 2021. A certification was issued on June 4, 2018 (OL180571) containing the names of the nine eligibles. Agency records do not indicate that the certification was returned for disposition. As a result, a salary disapproval notice was issued on November 14, 2018.

By way of letter dated December 12, 2018, the appointing authority stated, among other things, that the subject examination was triggered as Mr. Serrano was serving provisionally in the title. It further explained that, although Mr. Serrano's name appears on the OL180571 list, he did not pass the Bi-Cat examination. It added that effective August 6, 2018, Mr. Serrano received a regular appointment from an eligible list for a Psychiatric Social Worker (C0400W). The appointing authority added that none of the eligibles on the subject eligible list met the needs or requirements for appointment to the subject position, and there were no vacancies for the position of Social Worker Institutions, Bilingual in Spanish and

English. As such, the appointing authority requested to cancel the OL180571 certification.

By letter dated December 19, 2018, the Division of Appeals and Regulatory Affairs (DARA) acknowledged the appointing authority's request for an appointment waiver. Moreover, it advised that if its request were granted, the appointing authority could be assessed for the costs of the selection process in the amount of \$2,048. It is noted that the appointing authority did not provide any other arguments or information in response to this matter.

A review of agency records reveals that there are currently no employees serving provisionally in the subject title with Middlesex County.

### 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 due to the appointing authority's request to fill a position with the subject title. However, after the OL180571 certification was issued, the appointing authority requested cancellation of the certification since the provisional appointee was permanently appointed to another position, the current list of eligible did not meet the needs of the appointing authority and there were no vacancies for the position. As the appointed authority has determined that it will not fill the position and there is no longer a provisional appointee serving in the subject title, there is 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 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. While the Commission recognizes that the only provisional employee in the subject position was appointed to another position, the appointing authority did not take any action to obviate the need for the examination at the time of the announcement or prior to its processing. Furthermore, the fact that the appointing

authority no longer wishes to utilize the subject title is not sufficient justification to waive the costs. Therefore, although the appointing authority has shown sufficient reason for not making an appointment from the subject eligible list, under these circumstances, it has failed to present a sufficient basis for not being charged for the costs of the selection process which produced it. 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 the request for a waiver of the appointment requirement be granted. Additionally, the 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 17<sup>th</sup> DAY OF APRIL, 2019



Deirdre L. Webster Cobb  
Chairperson  
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