



STATE OF NEW JERSEY

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

In the Matter of Strengthening
Public Health Infrastructure,
Workforce and Data Systems,
Department of Health

Request for Unclassified Appointments

CSC Docket No. 2023-1221

ISSUED: December 21, 2022 (EG)

The Division of Agency Services (Agency Services) seeks Civil Service Commission (Commission) approval to make temporary unclassified appointments to various career service titles in order to allow expedited staffing related to the Center for Disease Control and Prevention’s (CDC) funding to the Department of Health (DOH) to establish a Strengthening Public Health Infrastructure, Workforce and Data Systems program.

By way of background, the DOH has received federal funding to establish a Strengthening Public Health Infrastructure, Workforce and Data Systems program. The funds granted by the CDC will support necessary expenses to implement and oversee recruitment, retention, and advancement of public health professionals and ensure the employees have the resources and support necessary to effectively deliver public health services to the consumers receiving these services. The federal funding was approved for a period of five years, and the interim program would be subject to phasedown after the five-year timeframe. Due to the limited duration of the program and the need to quickly fill these funded positions to ensure timely deployment, the DOH requests approval to make unclassified appointments to the certain career service titles it will need to operate these enhanced efforts. These unclassified appointments would be created solely to accomplish the mission set forth above. The titles the DOH seeks to utilize for this program are attached.

Agency Services presents that the basis for allowing unclassified appointments to be made to specific, appropriate, career service titles is the immediate need for staff in order to meet strict timelines mandated for the

administration of the federal funds DOH has been granted to assist the citizenry of New Jersey in coping with public health issues. Agency Services emphasizes that it is imperative that the DOH have the ability to fill positions in the interim to support the establishment of a Public Health Infrastructure, Workforce and Data Systems program. In this regard, it notes that the federal funding received by the State was approved for a period of five years. Thus, it would be impractical to make permanent appointments to any positions to perform these duties since the positions are, at the outset, short-term in nature. Moreover, Agency Services underscores that the DOH needs to fill these positions rapidly due to the limited timeframe of the funding. Accordingly, Agency Services requests that the attached list of career service titles be deemed appropriate to fill through unclassified appointments for the DOH's staffing related to funding received from the CDC for the establishment of a Public Health Infrastructure, Workforce and Data Systems program.

CONCLUSION

In State service, *N.J.S.A.* 11A:3-4(l) provides that the unclassified service shall be limited to those titles specifically designated and all other titles as provided by law or as the Commission may determine in accordance with criteria established by rule. *N.J.A.C.* 4A:3-1.1(a) provides that all job titles shall be allocated to the career service, except for those job titles allocated by the Commission to the unclassified service pursuant to *N.J.A.C.* 4A:3-1.3. *N.J.A.C.* 4A:3-1.3(a) provides that a title shall be allocated to the unclassified service when:

- 1) In State service, the title is so designated under *N.J.S.A.* 11A:3-4;
- 2) In local service, the title is so designated under *N.J.S.A.* 11A:3-5;
- 3) The title is designated unclassified by another specific statute;
- 4) A specific statute provides that incumbents in the title serve for a fixed term or at the pleasure of the appointing authority; *or*
- 5) The Commission determines that it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title.

Our courts have recognized the State's strong public policy, as evinced by the State Constitution, favoring the inclusion of as many titles as possible in the career service. *See, Walsh v. Department of Civil Service*, 32 *N.J. Super.* 39, 43-44 (App. Div. 1954); *Loboda v. Clark Township*, 40 *N.J.* 424, 434 (1983); *State v. Clark*, 15

N.J. 334, 341 (1954); In the Matter of Hudson County Probation Department, 178 N.J. Super. 362, 371 (App. Div. 1981).

In the instant matter, there is no question that the titles requested by Agency Services are not specifically designated by *N.J.S.A. 11A:3-4*, nor is there specific statutory authority for unclassified appointments to these titles. Likewise, there is no statutory provision allowing for the appointment of an incumbent in the title to serve for a fixed term or at the pleasure of an appointing authority. Therefore, it is necessary to evaluate this matter under *N.J.A.C. 4A:3-1.3(a)5*, which specifies that the Commission may allocate a title to the unclassified service if it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title.

It has been the established practice of this agency to administer separate examinations for each competitive title within a title series. As such, for each examination, this agency issues either an open competitive or promotional announcement, reviews the resultant applications that are received to determine eligibility to compete in the examination, develops and conducts an examination, issues eligible lists ranking those candidates who passed the examination, and certifies the eligible list so that an appointing authority can consider interested eligibles for appointment. While this methodology is clearly consistent with the constitutional and statutory mandate to select and advance employees on the basis of merit and fitness, it cannot be ignored that this process can take several months to complete. Additionally, it is anticipated that the DOH's interim program will phase down in five years due to the end of federal funding. Given the immediate need for the DOH to make appointments in order to meet strict timelines mandated for the administration of the federal funds it has been granted and the fact that the interim program will be phased down in five years, the Commission finds that it would not be practicable to determine merit and fitness for appointment nor make permanent appointments to the titles utilized by the DOH in this program.

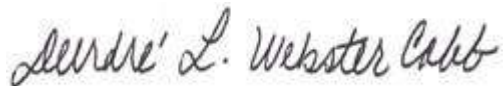
Additionally, the Commission notes that in accordance with *N.J.S.A. 11A:3-6*, a public hearing is required when moving a title from the career to the unclassified service. However, the titles at issue are *not* to be considered unclassified except for the specific positions utilized in the interim by the DOH to allow for expedited staffing related to federal funding received. In this regard, these positions are not yet encumbered. As such, a public hearing is not necessary. Nevertheless, the DOH is directed to ensure that all of the appointees to positions under this program are advised that their appointments are in the unclassified service and that they are not entitled to the tenure protections provided under Civil Service law and rules.

ORDER

Therefore, it is ordered that this request be granted and that the titles attached be designated as unclassified as per above. The Department of Health is to ensure that all of the appointees to positions within this interim program are advised that their appointments are unclassified and that they will not be entitled to the tenure protections of Civil Service law and rules.

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 21st DAY OF DECEMBER, 2022



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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and
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Attachment

c: Loreta Sepulveda
Division of Agency Services
Records Unit

Administrative Analyst 1
Administrative Analyst 1 Fiscal Management
Administrative Analyst 1 Information Systems
Administrative Analyst 2
Administrative Analyst 2 Fiscal Management
Administrative Analyst 2 Information Systems
Administrative Analyst 3
Administrative Analyst 3 Fiscal Management
Administrative Analyst 3 Information Systems
Administrative Analyst 4
Administrative Analyst 4 Fiscal Management
Administrative Analyst 4 Information Systems
Contract Administrator 1
Contract Administrator 2
Contract Administrator 3
Grants Specialist
Grants Manager
Education Program Development Specialist 1
Education Program Development Specialist 2
Education Program Development Specialist 3
Health Data Specialist 1
Health Data Specialist 2
Health Data Specialist 3
Management Assistant
Senior Management Assistant
Public Health Representative 1
Public Health Representative 2
Public Health Representative 3
Equal Employment Opportunity Officer
Training Technician 1
Training Technician 2
Training Technician 3
Training Technician 4
Government Representative 1
Government Representative 2
Government Representative 3
Program Specialist 1
Program Specialist 2
Program Specialist 3
Program Specialist 4
Senior Executive Service
Executive Director
Health Science Specialist
Supervising Administrative Analyst

Technical Assistant 1
Technical Assistant 2
Technical Assistant 3
Public Health Consultant 1 Social Work
Public Health Consultant 2 Social Work
Public Health Consultant 1 Health Education
Public Health Consultant 2 Health Education
Public Health Consultant 1 Nutrition
Public Health Consultant 2 Nutrition
Public Health Consultant 1 Nursing
Public Health Consultant 2 Nursing
Nursing Consultant