



STATE OF NEW JERSEY

In the Matter of Deputy Municipal
Emergency Management Coordinator
(M0051E), Hoboken

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2024-753

Appointment Waiver

ISSUED: December 6, 2023 (AMR)

Hoboken requests permission not to make an appointment from the June 5, 2023 certification for Deputy Municipal Emergency Management Coordinator (M0051E), Hoboken.

The record reveals that Hoboken provisionally appointed Kevin Cruz, pending open competitive examination procedures, to the subject title effective September 29, 2022. An examination was announced with a closing date of January 23, 2023, that resulted in a list of five eligibles promulgating on June 1, 2023 and expiring on May 31, 2026. It is noted that Cruz was separated from his provisional position on September 26, 2023, and was appointed to the unclassified title of Emergency Response Specialist, effective September 27, 2023. Additionally, 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 subject certification and requested a waiver of the appointment requirement, as Cruz was separated from his provisional position. Additionally, the appointing authority asserted that it would endeavor to utilize the subject eligible list before the May 31, 2026 expiration date.

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. Despite the

opportunity, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

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 Cruz. However, after a complete certification was issued, the appointing authority requested an appointment waiver after Cruz was separated from his provisional position when he was appointed to the unclassified title of Emergency Response Specialist. Thus, in conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

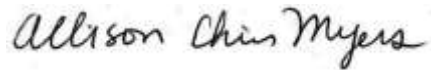
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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 Commission notes that the list in question will not expire until May 31, 2026. Further, the appointing authority has indicated that although an appointment will not be made at this time, it will endeavor to utilize the list prior to its expiration. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event it fails to utilize the subject eligible list by its expiration date of May 31, 2026, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs presently be assessed.

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 6TH DAY OF DECEMBER, 2023



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