



STATE OF NEW JERSEY

In the Matter of Presiding Judge
Titles, Judiciary

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

CSC Docket No. 2025-830

Title Creation

ISSUED: November 7, 2024 (HS)

The Division of Agency Services (Agency Services) requests the establishment of the unclassified Judiciary titles of Presiding Judge of the Superior Court, Presiding Judge of the Tax Court, and Presiding Judge of the Appellate Court.

As background, *N.J.S.A. 2B:5-2* provides that employees who are responsible for overall operation and management of the court system, who are direct and confidential support employees to judges, or who perform duties of a highly technical or specialized nature shall be in the unclassified service.

The instant request follows the passage of two pieces of legislation. First, P.L. 2023, c. 349 amended *N.J.S.A. 2B:2-4* to explicitly provide, effective January 1, 2024, a higher salary for the positions of Presiding Judge of the Superior Court and Presiding Judge of the Tax Court as compared to, respectively, Judge of the Superior Court and Judge of the Tax Court. Second, P.L. 2024, c. 56 amended *N.J.S.A. 2B:2-4* to explicitly provide, effective January 1, 2024, a higher salary for the position of Presiding Judge of the Appellate Court as compared to Judge of the Appellate Court.¹ Agency Services indicates that the primary functions of the Presiding Judge titles are to oversee the court processes, including managing case assignments, presiding over oral arguments, and ensuring that legal procedures are followed. The Presiding Judges also play a significant role in drafting opinions and shaping legal precedents, while facilitating communication and collaboration among judges. The existing titles

¹ It is noted that the legislation refers to the Presiding Judge of the Superior Court, Appellate Division, and the Judge of the Superior Court, Appellate Division. However, the Civil Service title for the latter is Judge of the Appellate Court.

Judge of the Superior Court, Judge of the Tax Court, and Judge of the Appellate Court are already allocated to the unclassified service. Agency Services requests that the effective date for the creation of the new titles be December 30, 2023, the beginning of the pay period during which the new salaries became effective.

CONCLUSION

In matters involving the question of whether a particular title should be allocated to the career or unclassified service, the starting point is the *New Jersey Constitution*, Article VII, sec. 1, par. 2, providing that:

Appointments and promotions in the civil service of the State, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, *as far as practicable, by examination*, which, as far as practicable, shall be competitive; except that preference in appointments by reason of active service in any branch of the military or naval forces of the United States in time of war may be provided by law (emphasis added).

An interpretation of Civil Service law governing the unclassified service must be made in view of this constitutional mandate and a strict interpretation is generally given in matters concerning allocation to the unclassified service. *See in the Matter of Investigator, Penal Institution, et al., Essex County* (MSB, decided September 16, 1997).

In State service, *N.J.S.A.* 11A:3-4 provides that the unclassified service shall be limited to those titles it specifically designates and all other titles as provided by law or as the Commission may determine. *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). This principle of ascertaining "merit and fitness" for promotions and appointments through an open competitive examination process is at the very heart of our merit system.

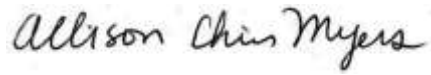
Against this background, in this matter, Civil Service law and rules amply support the establishment of the proposed new titles in the unclassified service based on *N.J.A.C.* 4A:3-1.3(a)3. *N.J.S.A.* 2B:5-2 provides, in pertinent part, that employees who are responsible for overall operation and management of the court system shall be in the unclassified service. P.L. 2023, c. 349 and P.L. 2024, c. 56 amended *N.J.S.A.* 2B:2-4 to explicitly provide higher salaries for the positions of Presiding Judge of the Superior Court, Presiding Judge of the Tax Court, and Presiding Judge of the Appellate Court as compared to those judges not serving in a presiding capacity. Further, Presiding Judges, among other things, oversee the court processes, including managing case assignments. Moreover, the existing titles Judge of the Superior Court, Judge of the Tax Court, and Judge of the Appellate Court are already allocated to the unclassified service. Thus, the Commission concludes that there is good cause to permit the creation of the unclassified titles of Presiding Judge of the Superior Court, Presiding Judge of the Tax Court, and Presiding Judge of the Appellate Court.

ORDER

Therefore, it is ordered that this request be granted and that the titles of Presiding Judge of the Superior Court, Presiding Judge of the Tax Court, and Presiding Judge of the Appellate Court be established in the unclassified service, effective December 30, 2023.

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 NOVEMBER, 2024



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