



STATE OF NEW JERSEY

In the Matter of Clerk 3 (M0650E),
Belleville

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

CSC Docket No. 2024-2220

Appointment Waiver

ISSUED: July 24, 2024 (AMR)

Belleville requests permission not to make an appointment from the October 10, 2023 certification for Clerk 3 (M0650E).

The record reveals that Belleville provisionally appointed Corrine D'Angelo, pending open competitive examination procedures, to the subject title effective August 1, 2022. An examination was announced with a closing date of July 21, 2023, that resulted in a list of 19 eligibles with an expiration date of October 4, 2026. It is noted that D'Angelo was separated from her provisional position and returned to her permanent title of Clerk 1 on March 27, 2027. She then was appointed provisionally to the title of Clerk 2 effective April 30, 2024. Additionally, there are currently no employees serving provisionally pending open competitive procedures in the subject title with the appointing authority.

The appointing authority returned the subject certification and requested a waiver of the appointment requirement, indicating that due to budgetary constraints and organizational changes, it would be unable to make an appointment from the subject eligible list at this time. It noted that when it "initially stumbled upon some unforeseen fiscal constraints," it contacted this agency. While there was an effort to request cancellation, the appointing authority stated that "the correspondence somehow slipped between the cracks" as staff went on leave. Furthermore, the appointing authority asserted that although it was not looking to make an

appointment at this time, it may do so in the near future, before the October 4, 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 D'Angelo. However, after a complete certification was issued, the appointing authority requested an appointment waiver claiming that, due to budgetary constraints and organizational changes, it would be unable to make an appointment from the subject eligible list at this time. Moreover, it is noted that D'Angelo was separated from her provisional position as a Clerk 3 and has been serving provisionally as a Clerk 2 since April 30, 2024. 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 October 4, 2026. Furthermore, the appointing authority has indicated that it may make an appointment in the near future, before the expiration date of the subject eligible list. 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 October 4, 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 24TH DAY OF JULY, 2024



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Anthony D. Iacono
Division of Human Resources Information Services
Division of Appeals and Regulatory Affairs
Records Center