



STATE OF NEW JERSEY

In the Matter of Ombudsperson
Health 1 and Ombudsperson Health
2

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

CSC Docket No. 2025-28

Title Creation

ISSUED: July 24, 2024 (SLK)

The Division of Agency Services (Agency Services) requests the establishment of new unclassified titles, Ombudsperson Health 1 and Ombudsperson Health 2, for use in the Department of Labor and Workforce Development.

By way of background, the Healthcare Ombudsperson Program is a labor-management initiative that was negotiated as a part of the July 1, 2019–June 30, 2023, Communications Workers of America (CWA) – State of New Jersey Collective Negotiations Agreement to ensure that employees have access to and assistance in selecting high-quality, cost-effective healthcare options. As part of this agreement, Agency Services was asked to create new unclassified titles, Ombudsperson Health 1 and Ombudsperson Health 2, for use within the Healthcare Ombudsperson Program.

The Ombudsperson Health 1 and Ombudsperson Health 2 titles will be responsible for providing education and counseling on State of New Jersey health benefit plans and options; eliciting, receiving, processing, and resolving employee healthcare complaints/issues; and coordinating and conducting outreach activities designed to expand awareness of the Ombudsperson Program. Examples of work may include attending open enrollment fairs and making presentations to various groups and committees; answering technical inquiries regarding health benefits; researching and analyzing in and out of network utilization, access to mental health services, and other health benefits related topics; *etc.*

The Ombudsperson Health 1 and Ombudsperson Health 2 titles will reside in the unclassified service pursuant to *N.J.S.A.* 11A:3-4l, which provides that the State unclassified service shall not be subject to the provision of this title unless otherwise specified and shall include employees in all other titles as provided by law or as the Civil Service Commission (Commission) may determine. Additionally, the employees currently residing in the titles of Government Representative 3 and Government Representative 2 who shall perform the Ombudsperson Health 1 and Ombudsperson Health 2 duties shall be moved to the appropriate salary ranges, respectively.

The bargaining units were assigned by the Governor's Office of Employee Relations. Additionally, Agency Services advises that it has provided notice and the opportunity to review the proposal to all collective negotiations units and all articulated issues have been reviewed and resolved. Finally, Agency Services requests that the changes specified become effective beginning on the first pay period following Commission approval of these actions.

CONCLUSION

N.J.A.C. 4A:3-3.6(a) states, in pertinent part, that the Commission may determine that a new title or title series is necessary. 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 created 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.

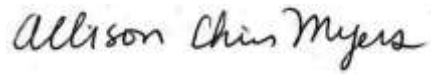
Against this background, Civil Service law and rules amply support the establishment of the proposed new titles in the unclassified service. Specifically, these titles are being created out of the Healthcare Ombudsperson Program, which is a labor-management initiative that was negotiated as a part of the July 1, 2019-June 20, 2023, CWA-State of New Jersey Collective Negotiations Agreement to ensure that employees have access to and assistance in selecting high-quality, cost-effective healthcare options. Moreover, the employees who will be performing the Ombudsperson Health 1 and Ombudsperson Health 2 duties are already serving in unclassified titles. Thus, there is good cause to permit the creation of the unclassified Ombudsperson Health 1 and Ombudsperson Health 2 titles.

ORDER

Therefore, it is ordered that the request be granted. This action shall be effective at the beginning of the first pay period following the issue date of this decision.

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



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