



**STATE OF NEW JERSEY**

In the Matter of Executive Director,  
Passaic Valley Water Commission

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

CSC Docket No. 2025-2056

Title Creation

**ISSUED: April 30, 2025 (HS)**

The Division of Agency Services (Agency Services) requests the establishment of the unclassified title of Executive Director, Passaic Valley Water Commission (PVWC).

As background, the PVWC submitted a request to Agency Services for the creation of a new title, Executive Director, PVWC. Agency Services explains that the Executive Director, PVWC, will be responsible for managing, planning, coordinating, and administering all activities of the PVWC. The incumbent will also be charged with the short-term and long-term strategy of the organization, subject to review by the Board of Commissioners. The Executive Director, PVWC, will be a high-level title that will serve at the pleasure of the Board of Commissioners. Agency Services requests that the effective date for the creation of the new title be the first pay period following the Civil Service Commission's (Commission) approval.

**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 local service, *N.J.S.A.* 11A:3-5 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.

The real issue here is whether the subject title requires possession of knowledge and skills and the exercise of duties and functions so unique that "merit and fitness" for the position cannot be ascertained through a competitive examination

process and that a permanent appointment to the title is not appropriate, and, accordingly, allocation of the title to the unclassified service is warranted.

The case of *Ogden v. Department of Civil Service*, 77 N.J. Super. 296 (App. Div. 1962), *cert. denied*, 39 N.J. 238 (1963), is instructive. There, the Appellate Division held that, given the complex nature of the duties and the uniqueness of the position of General Superintendent and Chief Engineer of the PVWC, it was not practicable to determine merit and fitness for the position by examination or minimum qualification requirements. In that case, the position was the highest ranking full-time position in the employ of the PVWC, answerable only to the four Commissioners whose role was analogous to that of a governing body. Moreover, since the Commissioners themselves served only part-time in the role of trustees and lacked technical training, they necessarily relied on the General Superintendent and Chief Engineer for guidance. Additionally, concurring with the findings made by the Department, the court noted the many complex duties and required abilities of the General Superintendent and Chief Engineer, involving knowledge of engineering, administration, fiscal policies, expansion programs, personnel problems, and public relations. The court further underscored the importance of the confidential relationship that must exist between the Commissioners and the General Superintendent and Chief Engineer and the fact that the Commissioners leaned heavily on this individual for advice and guidance in creating and implementing policy.

In this matter, Executive Director, PVWC, is a unique, high-level position, and the appointee would be expected to bring to the job the knowledge, skills, and abilities required to effectively perform the varied and complex required duties, namely managing, planning, coordinating, and administering all activities of the PVWC. As such requirements are not easily tested for, it would be impracticable to determine merit and fitness for the position by examination. In addition, given that the incumbent is charged with the short-term and long-term strategy of the organization, subject to review by the Board of Commissioners, the incumbent essentially exercises policymaking responsibility. In light of the position's role in policymaking, a permanent appointment to the title is not appropriate. Thus, good cause exists to create the title of Executive Director, PVWC, in the unclassified service.

### **ORDER**

Therefore, it is ordered that this request be granted and that the title of Executive Director, Passaic Valley Water Commission, be established in the unclassified service, effective May 3, 2025.

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 30<sup>TH</sup> DAY OF APRIL, 2025



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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: Division of Agency Services  
Sydel Cohen  
Records Center