

that no veteran heads the list. Moreover, it is noted that the appellant has the burden of proof in this matter. *See N.J.A.C. 4A:2-1.4(c)*.

In the instant matter, the appellant appeared as the 55th ranked eligible on the on the August 10, 2023, certification. The appellant argues that the appointing authority has failed to provide a reason for bypassing his name and appointing seven lower ranked individuals. The appointing authority has not provided any evidence or arguments in support of its bypass of the appellant's name on the subject certification. In this regard, the Commission notes that while the appointing authority is not required to provide a reason for a bypass when disposing of the certification, it is required to do so on appeal. *See In the Matter of Ryan Morgan* (CSC, decided November 21, 2018) (The appointing authority initially argued that it did not need to supply a reason for its bypass based on the repeal of *N.J.A.C. 4A:4-4.8(b)*). The Commission found that the repeal of this regulation only changed the timing as to when an appointing authority was required to submit a legitimate business reason when it bypassed a candidate and the appointing authority was still required to submit its legitimate business reason for the bypass upon appeal). In view of the foregoing, this matter cannot be resolved on the basis of the written record. The Commission does not possess the full factual record with which to make a proper determination. Accordingly, the Commission finds it necessary to refer this matter to the Office of Administrative Law in order to develop a factual record as to whether the appellant's bypass for appointment on the August 10, 2023, certification of the Fire Fighter (M2250D), Atlantic City eligible list was based on legitimate reasons or whether the appointing authority evidenced invidious motivation in effecting the bypass.

ORDER

Therefore, it is ordered that the matter of the appellant's bypass for appointment on the August 10, 2023, certification be transmitted to the Office of Administrative Law for a hearing as a contested case. It is further ordered that the appointment of the lower-ranked eligibles be designated conditional pending the outcome of this appeal.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 5TH DAY OF NOVEMBER, 2025



Allison Chris Myers
Chairperson
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