



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION

OF THE CHAIR/
CHIEF EXECUTIVE OFFICER
CIVIL SERVICE COMMISSION

In the Matter of the Reallocation of
Local Information Technology Titles
from the Competitive to the Non-
Competitive Division of the Career
Service

CSC Docket No. 2024-2362

ISSUED: July 5, 2024
(KAG)

The Division of Administrative and Employee Services (Division) recommends reallocation of various Local government Information Technology titles to the non-competitive division of the career service in accordance with *N.J.S.A. 4A:3-1.2*. The titles recommended for reallocation are listed in the attachment.

N.J.A.C. 4A:3-1.2(c) provides that a job title may be placed in the non-competitive division when it is determined that it is appropriate to make permanent appointments to the title and one or more of the following criteria are met:

1. Competitive testing is not practicable due to the nature of the knowledge, skills and abilities associated with the job;
2. Certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems, and working conditions; or
3. There is a need for immediate appointments arising from a new legislative program or major agency reorganization.

At the outset, the Division notes that the field of information technology is frequently evolving at a rapid pace, making the development of relevant examination content difficult. Further, appointing authorities frequently experience difficulty in recruiting qualified candidates for these positions, given the difference in salary for such jobs in the public and private sectors, and the length of

time it takes to receive an eligible list, where there are viable candidates, often inhibits recruitment, as candidates in this field are highly sought after in this competitive job market, and often find employment in the interim.

The Division also emphasizes that the difficulty keeping pace with the development of examination content to test the relevant knowledge, skills and abilities results in the decision to frequently produce eligible lists based on waivers of competitive examinations or evaluations of education and experience. To support this assertion, the Division notes that, of the currently active 124 symbols for the impacted titles, all 124 were processed via a waiver or education and experience evaluation, rather than a written examination. Even when processed in this manner, the eligible lists take, on average, more than four months to produce, and the majority contain less than three eligible candidates.

At this juncture, it must be underscored that the New Jersey Constitution, Article VII, sec. 1, p. 2, provides:

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)

The term "competitive" has a specific meaning in the context of civil service law and rule and is rooted in *N.J.S.A. 11A:4-8*, Certification and appointment. Specifically, this agency:

[s]hall certify the three eligibles who have received the highest ranking on an open competitive or promotional list against the first provisional or vacancy. For each additional provisional or vacancy against whom a certification is issued at that time, the commission shall certify the next ranked eligible. If more than one eligible has the same score, the tie shall not be broken, and they shall have the same rank. If three or more eligibles can be certified as the result of the ranking without resorting to all three highest scores, only those eligibles shall be so certified.

A certification that contains the names of at least three interested eligibles shall be complete and a regular appointment shall be made from among those eligibles. An eligible on an incomplete list shall be entitled to a provisional appointment if a permanent appointment is not made.

Thus, if only three applicants apply for an examination, if they all meet the announced experience requirements, even assuming an assembled examination was conducted and all three applicants passed the test, in accordance with *N.J.S.A. 11A:4-8*, if only one position needed to be filled, assuming none of the eligibles established veterans preference¹, the appointing authority could appoint the third, second, or first ranked eligible on the list. In this type of situation, the distinction between each eligible's level of performance as measured by their relative scores on an examination do not necessarily have a bearing on which eligible can legally be appointed to the position. While a list of three may be considered complete, it can only be competitive when a resultant list has *more* than three eligibles for each provisional or vacancy to be filled. If the pool of eligibles is more than three, and there is only one vacancy to be filled, the distinction between each eligible's level of performance as measured by their relative scores on an examination is critical because it determines who can be considered for appointment in accordance with *N.J.S.A. 11A:4-8*.

As noted earlier, all of the currently active 124 symbols for the impacted titles were processed via a waiver of competitive examination or an evaluation of education and experience. On average, the aforementioned symbols took more than four months to produce an eligible list and include less than three eligible candidates.

A key consideration when determining if reallocation to the non-competitive division is appropriate is if certification procedures based on ranked eligible lists have not or are not likely to meet the needs of appointing authorities due to such factors as salary, geographic location, recruitment problems, and working conditions. Significant recruitment problems in civil service jurisdictions often stem from the inability of an appointing authority to make an offer of a regular appointment due to the non-existence of an eligible list. Thus, the time necessary to establish an eligible list by this agency can be a critical factor in the recruiting process. It cannot be ignored that in order to initially appoint a new employee or to promote an existing employee to a career service title, both the appointing authority and interested eligibles are required to go through the Civil Service open competitive or promotional process. This consists of requesting an announcement, filing an application in order to determine eligibility to compete in an examination, developing an examination, conducting the examination and issuing an eligible list, certifying the list, and making appointments of reachable eligibles on the certification. The time necessary for soliciting a pool of interested applicants to interviewing eligibles listed on a certification, *for each and every potential hiring or*

¹ It is noted that *N.J.S.A. 11A:5-8*, preference in appointment in noncompetitive division, requires preference be given to a qualified veteran from among those eligible for appointment in the noncompetitive division. Before an appointing authority can select a non-veteran and not appoint a veteran, the appointing authority shall show cause before the Commission as to why a veteran should not be appointed. In all cases, a disabled veteran shall have preference over all others.

promotional action, is time consuming and evidences a duplication of selection processes performed by this agency that do not necessarily enhance the ultimate determination of relative merit and fitness – especially in cases where a position is required to be held by a licensed incumbent who has already been evaluated for merit and fitness. The situation is further compounded when a resultant eligible list is eventually issued that, even after public solicitation, does not result in a sufficient pool of eligibles to provide the appointing authority with a competitive list. In other words, the time it takes for certification procedures based on ranked eligible lists, when it has not historically resulted in a competitive situation, cause recruitment and retention problems to appointing authorities who need to fill these crucial positions on a timely basis. This is particularly true here, where it is evident that the field of information technology is a highly competitive field.

Local appointing authorities and collective bargaining units were notified of this proposal via notice posted on the Civil Service Commission website. The Commission received one comment from Alexandre Gabler, a local government employee, who expressed concern that the reallocation of these titles from the competitive to noncompetitive division would eradicate veterans' preference rights. However, as noted above, *N.J.S.A. 11A:5-8*, preference in appointment in noncompetitive division, requires preference be given to a qualified veteran from among those eligible for appointment in the noncompetitive division. Before an appointing authority can select a non-veteran and not appoint a veteran, the appointing authority shall show cause before the Commission as to why a veteran should not be appointed. In all cases, a disabled veteran shall have preference over all others.

In light of the above, it is evident that the often-lengthy process of producing eligible lists and certifications for these titles tends to hamper appointing authorities' ability to effectively and efficiently recruit qualified candidates to serve in these positions. Accordingly, reallocation to the non-competitive division is justified.

Any existing eligibility lists for these titles and any current announcements for which examinations have not been administered will be cancelled upon completion of the reallocation process. Nevertheless, local agencies wishing to do so may recruit and appoint from the cancelled lists. However, resulting appointments will be recorded as regular appointments in the non-competitive division (RAN). Appointment types for existing employees in these titles as of the effective date will be handled in accordance with *N.J.A.C. 4A:3-1.2(f)*:

1. Permanent employees in the titles as of the effective date shall have their appointment types changed to RAN and shall retain their permanent status in the non-competitive division.
2. Probationary employees in the titles as of the effective date shall continue serving their working test periods and, upon successful completion, attain permanent status in the non-competitive division.

3. Provisional employees who remain in that title as of the effective date shall receive regular appointments (RAN) and begin serving their working test period on the effective date.
4. The Divisions of Agency Services and Human Resource Information Services shall jointly review to determine promotional title rights for these new non-competitive titles.

This action will take effect beginning on the first pay period following approval of this action.

ORDER

Therefore, it is ordered that the titles listed in the attachment be reallocated to the non-competitive division. It is further ordered that such action be effective TBD.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CHAIR/CHIEF EXECUTIVE OFFICER ON
THE 5th DAY OF JULY, 2024


Allison Chris Myers
Chair/Chief Executive Officer
Civil Service Commission

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and
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Attachment

c: Scott Nance
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All Local Appointing Authorities

TITLE NAME

SUPERVISOR INFORMATION TECHNOLOGY

TECHNICAL SUPPORT SPECIALIST 2

SUPERVISOR INFORMATION TECHNOLOGY HELP DESK

ADMINISTRATIVEANALYST 3 INFORMATION SYSTEMS

DATABASE ANALYST 2

TECHNICAL SUPPORT SPECIALIST 1

PROJECT MANAGER DATA PROCESSING

SENIOR TECHNICIAN MANAGEMENT INFORMATION SYSTEMS

PRINCIPAL TECHNICIAN MANAGEMENT INFORMATION SYSTEMS

NETWORK ADMINISTRATOR 1

NETWORK ADMINISTRATOR 2

TECHNICIAN MANAGEMENT INFORMATION SYSTEMS

DATABASE ADMINISTRATOR 2

SOFTWARE DEVELOPMENT SPECIALIST 2

SOFTWARE DEVELOPMENT SPECIALIST 3

SUPERVISOR INFORMATION TECHNOLOGY

TELECOMMUNICATIONS SYSTEMS ANALYST

SENIOR TELECOMMUNICATIONS SYSTEMS ANALYST

SENIOR DATA PROCESSING PROGRAMMER

PRINCIPAL DATAPROCESSING PROGRAMMER

SUPERVISOR OF DATA PROCESSING SYSTEMS AND PROGRAMMING

MANAGEMENT INFORMATION SYSTEMS SPECIALIST

MANAGER 1 INFORMATION PROCESSING

SUPERVISOR OF DATA PROCESSING PROGRAMMING

FORENSIC ANALYST INFORMATION TECHNOLOGY

PRINCIPAL SYSTEMS ANALYST

SUPERVISING COMPUTER OPERATOR

MANAGEMENT INFORMATION SYSTEMS COORDINATOR

COMPUTER OPERATOR

PRINCIPAL DATA PROCESSING SYSTEMS PROGRAMMER

SENIOR DATA PROCESSING SYSTEMS PROGRAMMER

ASSISTANT DATA PROCESSING COORDINATOR

SENIOR SYSTEMS ANALYST

SENIOR COMPUTER OPERATOR

SUPERVISOR OF DATA PROCESSING OPERATIONS

ASSISTANT DIRECTOR OF INFORMATION TECHNOLOGY

DATA PROCESSING COORDINATOR

DIRECTOR OF DATA PROCESSING