



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

PO BOX 317
TRENTON, NJ 08625-0317

JON S. CORZINE
Governor

HOPE L. COOPER
Chair/Chief Executive Officer

May 12, 2009

Honorable Louis D. Greenwald
Chairman
Assembly Budget Committee
State House Annex
P.O. Box 068
Trenton, NJ 08625-0068

Dear Chairman Greenwald,

Kindly accept this letter as a response to the inquiry made concerning the Civil Service Commission in your May 5, 2009 correspondence to Commissioner Socolow of the Department of Labor and Workforce Development. As the Civil Service Commission is an independent agency which is "in-but-not-of" the Department of Labor and Workforce Development, Commissioner Socolow appropriately referred the following to me for response:

Please comment on the Civil Service Commission's ability to issue an emergency ruling to suspend the rules limiting "out of title" work performed by a State employee in order to facilitate the more efficient use of State employees to meet the changing needs of the State.

Answer: Pursuant to the general rulemaking provisions of New Jersey Statutes Title 52:14B-4, the Civil Service Commission is, as is true of all State agencies, empowered with the authority to adopt regulations through normal rulemaking processes, as well as via emergency procedures. In accordance with N.J.S.A. 52:14B-4, an agency seeking to adopt an emergency rule must, with the written concurrence of the governor, issue a written statement that sets forth the circumstance(s) of imminent peril to the public health, safety or welfare that necessitate the immediate promulgation of the subject regulation. An emergency rule is only in effect for 60 days; the regular rulemaking process, with public hearing(s) and opportunity for written comment, must be initiated to continue the rule change past 60 days.

A rule change to modify the "out-of-title" work regulation, NJAC 4A:3-3.4, as suggested in your query, would ultimately affect the heart of the Civil Service system in New Jersey. It is well established that the work performed in a given job title must be appropriate to the duties of said job title. A modification as suggested would put into question many of the tenets upon which the State of New Jersey's merit system is founded and may hamper the State's ability to meet its constitutional mandate to ensure that all appointments and promotions are based upon merit and fitness as determined through competitive testing. It also would compromise the basis for the state's compensation practices and raise liability issues if the employees did not meet the requirements of the position.

It is also anticipated that such a rule modification will engender significant challenges by the public-employee unions. The unions have long advocated that employees be appropriately

Honorable Louis D. Greenwald

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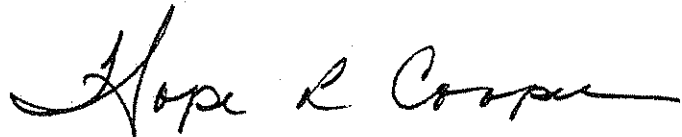
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classified and compensated for the work performed and a suspension of the regulation meant to enforce this concept will undoubtedly garner much attention and acrimony.

Please be advised that there are mechanisms in place for employee reassignments and transfers. All promotional opportunities are posted, often on a statewide basis, to ensure that all employees have an equal opportunity to compete for available positions. Lateral reassignments within an agency may be accomplished at management's discretion, enabling agencies to shift resources where the greatest needs exist. Additionally, the Civil Service Commission is able to assist agencies in examining their organizational structure to determine how best to accomplish agency objectives within the parameters of their staffing limits.

Thank you for the opportunity to provide information about the Civil Service Commission. Please do not hesitate to contact the Commission. My staff and I are available to address any other questions or concerns of the members of the Assembly Budget Committee.

Sincerely,

A handwritten signature in black ink that reads "Hope L. Cooper". The signature is fluid and cursive, with a long horizontal stroke at the end.

Hope L. Cooper
Chair/Chief Executive Officer

Cc: David J. Rosen, Legislative Budget and Finance Office
R. David Rousseau, Treasury
Charlene Holzbaur, Office of Management and Budget
Patrick O'Connor, Treasury
Mary Messenger, Assembly Democratic Office
Beth Schermerhorn, Assembly Republican Office
Robin Ford, Office of Legislative Services