B-63

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of V.B.,
Department of Corrections

CSC Docket Nos. 2015-1827
and 2015-2359

Discrimination Appeals

ISSUED: DEC 1 8 2015 (DASV)

V.B., a Senior Correction Officer with the Adult Diagnostic and Treatment Center, Department of Corrections (DOC), appeals the attached determinations of the Assistant Director of the Division of Equal Employment Division (EED), DOC, stating that the appellant failed to present sufficient evidence to support a finding that he had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

On September 22, 2014, the appellant filed a complaint, alleging that he had been retaliated against by Senior Correction Officer E.J. Specifically, the appellant asserted that, on May 22, 2014, he was escorting a Nurse to dispense medication to the Closed Custody Unit (CCU). The Nurse observed that the food ports were open and she did not feel safe. The appellant called out to E.J., "We're ready when you are," requesting that E.J. secure the ports, but he refused, stating "They're all open. You could take care of that, you're an officer." The appellant also claimed that when he was leaving the unit, E.J. had commented that if the appellant did not want to do his job, he should "hand in [his] badge." Moreover, as identified in the November 20, 2014 determination, the appellant alleged that several supervisory officers, including Administrator Prison Complex S.Y., Associate Administrator Prison Complex S.D., Correction Major T.S.-K, Correction Lieutenant N.M., Correction Lieutenant E.S., and Correction Sergeant T.S., failed to take appropriate action when he reported his allegations to them. It is noted that an administrative investigation had been conducted regarding the CCU incident. As a result, the appellant was served with a Letter of Counseling on August 14, 2014 because he was involved in a "verbal altercation" with E.J. and that he exited the CCU without

authority, which delayed the distribution of medication. The appellant was "counseled that assigned duties must be completed, or properly reported." Thus, the appellant alleged that, instead of addressing his complaint, the supervisors created a hostile work environment and he was ostracized, harassed, subjected to retaliation and banned from working in the CCU for more than 80 days.

In response, the EED conducted an investigation, which included interviews and a review of reports submitted in relation to the CCU investigation. The reports revealed that the dispute between the appellant and E.J. involved whose responsibility it was to secure the food ports during the distribution of medicine. The reports also included the Nurse's verification of what occurred. Moreover, the EED found that, while there was an "EED history" between the appellant and E.J., the incident involved a disagreement between the two of them and did not rise to the level of an adverse action in violation of the State Policy. Regarding the supervisory officers, the EED found that although the appellant reported the incident to them, which did not touch upon the State Policy, they properly advised him to submit a report. The EED emphasized that the appellant's complaint was not ignored, as an administrative investigation was conducted which resulted in remedial action for the appellant and E.J. Moreover, once the appellant reported the EED allegations to T.S.-K., she advised the appellant to speak with the Assistant Superintendent Liaison (ASL). The ASL gave the appellant an "EED package" and his allegations were then forwarded to the EED. Therefore, based on its investigation, the EED did not find a violation of the State Policy.

The appellant filed a subsequent retaliation complaint on December 10, 2014 against E.S. and Correction Major M.W. He claimed that he was interviewed by E.S., not as a witness, "but as a target of the [administrative] investigation" at which he was "threatened and intimidated." He claimed that E.S. was the union representative in a prior EEO complaint that he filed and was also named in his September 22, 2014 complaint. Moreover, the appellant asserted that M.W. violated his rights when he was ordered to report to E.S. for the interview, after being advised of the prior complaints and that the appellant did not feel comfortable being questioned by E.S. The appellant was with his union representative. Further, the appellant complained that M.W. ordered him to write a report about this incident "under duress."

In response, the EED conducted an investigation, which revealed that the incident between the appellant, E.S., and M.W. arose from the CCU incident. As set forth in the January 12, 2015 determination, the EED stated that E.S. is the Area Lieutenant for CCU and is responsible for handling all matters in the CCU, including administrative investigations. Moreover, the EED indicated that its investigation did not reveal evidence that E.S. subjected the appellant to retaliation or handled the administrative investigation in a biased manner. Accordingly, the EED did not find a violation of the State Policy.

On appeal to the Civil Service Commission (Commission), the appellant asserts that the determination of his complaints was based on an "incomplete and/or flawed investigation." The EED's interest is in "damage control" rather than having a "fair, impartial, and thorough investigation." Further, the appellant contends that the November 20, 2014 determination consisted of a "sanitized version of the events" and makes no reference to his State Policy claims. He also claims that some witnesses, such as the Nurse and his union representative, were not interviewed and some reports were not requested. The appellant maintains that E.J., without provocation, verbally abused him because he was still angry with the appellant for having filed the prior EED complaint. Moreover, the appellant contends that none of the superior officers told him to write a report and they did not follow proper EED protocol. However, it is noted that the appellant filed a report regarding the incident on May 22, 2014 and advised that he reported the same to T.S. immediately after it occurred, but he did not assert a claim of retaliation on the part of E.J.

Additionally, the appellant argues that the EED "relieved" the supervisors of their responsibility to report alleged State Policy violations, although they were all trained in handling complaints. One supervisor stated to him that the appellant "didn't use the magic words" and another supervisor refused to forward his complaint. Moreover, a Correction Lieutenant also did not want to hear the appellant's complaint and tried to intimidate him "to drop the issue." Furthermore, the appellant claims that T.S.-K. was "just being sarcastic" when she advised him to go to the ASL, after he had accused T.S.-K. of violating his rights and creating a hostile work environment. Additionally, on July 10, 2014, the appellant advised T.S.-K. that Correction Lieutenant E.S. never approached him regarding the administrative investigation. T.S.-K., "with a surprise[d] look" took back the Letter of Counseling and stated that she would speak to E.S. The appellant alleges that E.S. thereafter told him in an "aggressive and threaten[ing] manner" that if he wants an interview, he would get one. On August 7, 2014, the appellant was interviewed. On August 13, 2014, the appellant was ordered to T.S.-K.'s office and was again given the Letter of Counseling. The appellant states that when he voiced his EED concerns, T.S.-K. "smirked" and said, "What do you want me to do about it, go see the EED representative."

Lastly, the appellant contends that the EED's assertion that the conduct of the supervisors during the administrative investigation did not touch upon the State Policy is "absurd." In support of his appeal, the appellant submits his original complaint and memoranda concerning the CCU incident. With regard to the latter, the appellant presents a memorandum, dated May 23, 2014, directing that "[u]ntil further notice," the appellant and E.J. were "not to be assigned to CCU in any capacity, including Nurse escorts." However, a July 9, 2014 memorandum was issued clearing E.J. to return to his assignment at the CCU. The appellant argues that the memorandum shows that the CCU investigation was completed without

him being interviewed because E.J. returned to his post. The appellant's restriction from the CCU was lifted on August 14, 2014.

Regarding the EED's January 12, 2015 determination, the appellant asserts that he was not interviewed in connection with his complaint or afforded an opportunity to give a statement. He maintains that the EED violated his rights and requests permission to review all of the investigative materials in regard to his complaint. Moreover, the appellant contends that the conduct of E.S. and M.W. in the administrative investigation was "Retaliatory, Harassing, [and] Intimidating" for having filed his September 22, 2014 complaint. He indicates that his interview could have been assigned to another supervisor. In support of his appeal, the appellant submits, among other things, his December 10, 2014 complaint and an "Accused Statement," dated August 7, 2014. The appellant writes in the "Accused Statement" that he wants to know why he is being interviewed by E.S. when he was told by T.S.-K. on July 25, 2014 that the investigation had been completed.

In response, the EED states that the appellant's only basis for his appeal of the November 20, 2014 determination is that his witnesses were not interviewed. However, it indicates that the appellant did not name any witness in that matter. Moreover, the EED reiterates that reports submitted immediately following the CCU incident were reviewed, including the report of the Nurse. The Nurse's report was consistent with the appellant's version of his exchange with E.J. Thus, the EED states that it did not interview the Nurse. Additionally, it indicates that the appellant's other contentions fail to provide a basis for an appeal, as he only details his allegations and "expresses disbelief" that the EED investigation did not substantiate a State Policy violation. The investigation revealed that the Nurse did not feel comfortable with the food ports open. The appellant asked E.J. to accompany them, and they then exchanged "words" after E.J. refused. The EED notes that E.J. was a witness in an EED complaint filed by the appellant against a former Correction Lieutenant approximately five years ago. It maintains that a disagreement between staff does not rise to the level of retaliation or a hostile work environment. As to the allegation regarding the supervisors, the EED relies on its "detailed determination" and submits that the appellant's appeal is without merit and should be dismissed. It is noted that despite the opportunity, the EED did not respond to the appellant's appeal of the January 12, 2015 determination.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides that under the State Policy, discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic

information, liability for service in the Armed Forces of the United States, or disability. Additionally, retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by this policy. No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation. *See N.J.A.C.* 4A:7-3.1(h). Moreover, the appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)4.

Furthermore, *N.J.A.C.* 4A:7-3.1(e) indicates that supervisors shall make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the State agency's Equal Employment Opportunity/Affirmative Action Officer, or any other individual designated by the State agency to receive complaints of workplace discrimination/harassment. A supervisor's failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For purposes of this section and *N.J.A.C.* 4A:7-3.2, a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader).

Initially, the Commission finds that the EED's investigations of the appellant's complaints were adequate and included a review of pertinent documents and witness interviews. It is noted that the State Policy does not require that all witnesses be interviewed, especially in this case where the Nurse corroborated the appellant's version of the events by her report. Moreover, a complainant need not be interviewed if his or her complaint sufficiently describes the allegations. In this case, the appellant's complaints and the reports provided sufficient information as to what occurred.[1] Thus, the appellant's claim that the EED violated his rights is without merit. Moreover, the appellant is not entitled to review confidential investigative materials on a claim that he was not interviewed or afforded an opportunity to give a statement. In that regard, the release of confidential investigative materials is generally required when the Commission is unable to make an informed determination of the issues in question based on the record. *See In the Matter of Theresa Lockette* (MSB, decided May 7, 2003). In the instant matter, the Commission has a complete record before it upon which to render a fair decision on the merits of the appellant's complaint, and the Commission is satisfied that the appellant has had a full opportunity to present evidence and arguments on his behalf. *See In the Matter of Juliann LoStocco, Department of Law and Public Safety,* Docket No. A-0702-03T5 (App. Div. October 17, 2005); *In the Matter of Salvatore Maggio* (MSB, decided March 24, 2004). Accordingly, the Commission

[1] The appellant only asserts not being interviewed regarding his second complaint.

does not find it necessary to compel production of the investigative materials in this matter.

The Commission has conducted a review of the record and finds that the appellant's allegations are not substantiated. The investigation of his complaints could not establish a nexus between his prior discrimination complaints and the complained of actions of the respondents. Specifically, regarding the CCU incident, the record fails to establish that E.J.'s behavior was retaliatory. Rather, it demonstrates, at most, E.J.'s inappropriate and unprofessional behavior. E.J. was not willing to assist the appellant in securing the food ports because he clearly believed it was the appellant's job. As evidenced by what the appellant heard, E.J. commented that if the appellant did not want to do his job, he should "hand in [his] badge." It is well established that disagreements or unprofessional behavior between co-workers cannot sustain a violation of the State Policy. *See In the Matter of Aundrea Mason* (MSB, decided June 8, 2005) and *In the Matter of Bobbie Hodges* (MSB, decided February 26, 2003). Thus, apart from the appellant's belief, there is not sufficient evidence to find that the prior discrimination proceeding with E.J. five years ago precipitated E.J.'s response in this context. It is noted that examples of retaliatory action, without a legitimate business reason, may include termination of an employee; failure to promote an employee; altering an employee's work assignment; imposing or threatening to impose disciplinary action; or ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees). *See N.J.A.C.* 4A:7-3.1(h). Therefore, it would be inappropriate to utilize a claim of retaliation every time a dispute arises between co-workers who have had a history of involvement with the State Policy, especially in the instant matter where, on its face, the dispute does not rise to a retaliatory act.

Additionally, although the appellant maintains that supervisory personnel did not follow EED protocol when he reported the CCU incident to them, the appellant did not allege that all supervisory personnel violated the State Policy. Even if the supervisors knew of the appellant's prior history with E.J., they are not expected to report the dispute to the EED if no discrimination or retaliation is claimed especially where the incident is not discriminatory or retaliatory on its face. Moreover, while the appellant claims that none of the supervisors told him to write a report, he did so on the day of the CCU incident. A review of that report does not indicate that the appellant asserted a claim of retaliation on the part of E.J. Further, once the appellant reported the EED allegations to T.S.-K., she advised the appellant to speak with the ASL, who provided him with an "EED package" and forwarded the matter to the EED. It is emphasized that mere disagreement with the appointing authority's determination does not meet the appellant's burden of proof.

Furthermore, the appellant contends that the conduct of E.S. and M.W. in the administrative investigation was also retaliatory and harassing in violation of the State Policy. He indicates that his interview could have been assigned to another supervisor. However, as found in the EED investigation, E.S. is the Area Lieutenant for CCU and is responsible for handling all matters in the CCU, including administrative investigations. Moreover, the EED indicated that its investigation did not reveal evidence that E.S. subjected the appellant to retaliation or handled the administrative investigation in a biased manner. The appellant has not presented credible evidence to disturb the EED's findings. Additionally, given that E.S. is the Area Lieutenant for CCU, M.W.'s order to the appellant to be interviewed by E.S. was appropriate. As set forth above, a claim of retaliation should not be casually raised in response to a workplace disagreement.

Therefore, the appellant has failed to meet his burden of proof in these matters. *See N.J.A.C.* 4A:7-3.2(m)4. Accordingly, no basis exists to find a violation of the State Policy.

ORDER

Therefore, it is ordered that these appeals be denied.

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 16TH DAY OF DECEMBER, 2015

Robert M. Czech

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
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Attachments

c: V.B.
Leila Lawrence
Mamta Patel
Joseph Gambino

State of New Jersey
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

GARY M. LANIGAN
Commissioner

November 20, 2014

V[redacted] B[redacted]
[Mailed to Home Address]

Dear Mr. B[redacted]:

The Equal Employment Division (hereinafter "EED") has completed its review of your formal complaint wherein you allege that you have been subjected to retaliation by Senior Corrections Officer E[redacted] J[redacted] (hereinafter "SCO J[redacted]). Your formal complaint also alleges that Administrator S[redacted] Y[redacted] (hereinafter "Administrator [redacted]"), Assistant Superintendent S[redacted] D[redacted] (hereinafter "Assistant Superintendent [redacted]"), Major T[redacted] S[redacted]-K[redacted] (hereinafter "Major S[redacted]K[redacted]), Lieutenant N[redacted] M[redacted] (hereinafter "Lt. M[redacted]"), Lieutenant E[redacted] S[redacted] (hereinafter "Lt. S[redacted]") and Sergeant T[redacted] S[redacted] (hereinafter "Sgt. S[redacted]) failed to take appropriate action when you reported to them your allegation of retaliation by SCO J[redacted]. Please be advised that the EED did not substantiate a violation of the *Policy Prohibiting Discrimination in the Workplace* by the respondents.

Please be further advised that you provided that you are a first shift General Assignment Officer assigned to the Adult Diagnostic and Treatment Center (hereinafter "ADTC"). You allege that this matter arises from an incident which occurred on May 22, 2014. Specifically, you allege that on that date, you were responsible for escorting the nurse dispensing medication on the Closed Custody Unit (hereinafter "CCU"). You provided that SCO J[redacted] was the officer assigned to the CCU on that date. Further, you allege that at the start of the escort, you and the nurse observed that the food ports were unsecured which permitted the inmates to push them open. You allege that the nurse indicated to you that since the food ports were unsecured, she was nervous about dispensing the medication. You contend that you asked SCO J[redacted] to secure the ports and that he refused stating, *"They're all open. You could take care of that, you're an officer."* You allege that since securing food ports is within SCO J[redacted] area of responsibility and not yours, you escorted the nurse from the unit. Finally, you allege that as you were leaving SCO J[redacted] commented, *"If you don't want to do the job, hand in your badge."*

Additionally, with regard to the remaining respondents you allege the following: (1) on May 22, 2014, you reported the aforementioned incident to Sgt. S[redacted], but as he is a personal friend of SCO J[redacted], he advised that the matter was a personal issue between you and SCO J[redacted] and refused to follow EED protocol and report the matter; (2) on May 22, 2014, you reported the exchange with Sgt. S[redacted] to Lt. M[redacted] however he discouraged you from filing an EED complaint and did not follow EED protocol and report the incident; (3) on July 10, 2014, you were served a Letter of Counseling by Major S[redacted]-K[redacted] concerning the CCU incident with SCO J[redacted] at this time you learned that an investigation had been conducted by Lt. S[redacted] for which you had not been interviewed; (4) on July 10, 2014, an angry Lt. S[redacted] approached you in a threatening and aggressive manner to schedule an interview for the aforementioned investigation; (5) on July 25, 2014, you reported to Administrator Y[redacted] that you had been served with an unwarranted Letter of Counseling and Lt. S[redacted] actions as they pertained to the administrative investigation concerning the CCU incident, and Administrator Yates only indicated that she would speak with Major S[redacted]-K[redacted] and did not follow EED protocol and report the incident; (6) On August 7, 2014, Lt. S[redacted] interviewed you as a target of the investigation involving the CCU incident; (7) on August 8, 2014, you reported your EED allegations to Assistant Superintendent D[redacted], the ADTC Assistant Superintendent Liaison (hereinafter "ASL"), who provided you with a complaint package, but demonstrated no interest in your allegations as she did not secure a preliminary report from you or make inquiry about your allegations, as required by an Employee Relations policy; (8) on August 13, 2014, you contend that Major S[redacted]-K[redacted] manipulated the CCU incident investigation in that when she officially served you with a Letter of Counseling for said incident she advised that your "key" witness, the nurse present with you in the CCU, had not been interviewed as part of the administrative investigation; and (9) in response to your objection to the fact that your witness had not been interviewed, Major S[redacted]-K[redacted] only advised you to see the ASL and failed to protect you from harassment and retaliation. Lastly, it is your claim that the respondents have created a hostile work environment in that you reported an issue involving safety and security which included allegations touching the *Policy* and as a result you were ostracized, harassed, subjected to retaliation and banned from working in the CCU for more than eighty days.

Moreover, the Department of Corrections takes all allegations of violations of the *Policy* seriously, particularly retaliation, and such conduct will not be tolerated by the Department. The EED conducted a thorough investigation which included interviews and a review of all of the reports submitted during the CCU investigation. However, there was no evidence, through witnesses or otherwise, to substantiate the allegation that the respondents subjected you to retaliation. Rather, the reports submitted from the witnesses present during the CCU incident, including the nurse, confirmed that the exchange between you and SCO J[redacted] involved a dispute over whose duty it was to secure the food ports during the distribution of medication. Please note that while there is an EED history between you and SCO J[redacted], an incident involving a disagreement between co-workers does not rise to the level of adverse action and cannot sustain a violation of the *Policy*. With regard to the remaining respondents, the investigation did not substantiate a violation of the *Policy* against them. Rather, the investigation revealed that you reported to each of them the CCU incident, which did not touch the *Policy,* and they properly

advised you to submit a report. It is noted that your complaint regarding the CCU incident was not ignored. An administrative investigation was properly opened and resulted in remedial action for you and SCO J[redacted]. Also, when you reported the EED allegation to Major S[redacted]s-K[redacted], she advised you to speak with the ASL. Additionally, with regard to the method in which the administrative investigation was conducted and the fact that you were served with a Letter of Counseling as a result of its findings, these allegations are administrative in nature and as such, do not touch the *Policy*. Finally, with regard to the allegation that Assistant Superintendent D[redacted] did not follow the EED protocol because she did not express an interest in your allegations or request reports from you, the investigation confirmed that she fulfilled her duties as the ASL by providing you with an EED packet, and promptly forwarding same to the EED upon receipt from you. It is not within her area of responsibility as the ASL to request reports or conduct any form of preliminary investigation on behalf of the EED.

Based on the foregoing, the EED did not substantiate a violation of the *Policy Prohibiting Discrimination in the Workplace* by the respondents.

If you wish to appeal this determination, you must submit a written appeal to the New Jersey Civil Service Commission, Division of Merit System Practices & Labor Relations, Written Record Appeals Unit, P.O. Box 312, Trenton, New Jersey 08625-0312, postmarked or delivered within twenty (20) days of your receipt of this determination. The burden of proof is on the Appellant. Your appeal must include a copy of this determination, the reason for the appeal and the specific relief requested. Please be advised that pursuant to P.L. 2010, c. 26, effective July 1, 2010, there shall be a $20 fee for appeals. Please include a check or money order along with your appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee.

At this time, the EED also reminds you that the *Policy Prohibiting Discrimination in the Workplace* prohibits retaliation against any employee who files a discrimination complaint or participates in a complaint investigation or opposes a discriminatory practice. Furthermore, this matter remains confidential and the results of the investigation must not be discussed with others.

Sincerely,

Leila Lawrence

Leila Lawrence, Esq., Assistant Director
Equal Employment Division & Litigation Support
Office of Legal & Regulatory Affairs

APPROVED: Gary M. Lanigan

Gary M. Lanigan
Commissioner

c: Edward Emrich, Associate Administrator (ASL), ADTC

ADTC|14:09.001

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

GARY M. LANIGAN
Commissioner

January 12, 2015

V[redacted] B[redacted]
[Mailed to Home Address]

Dear Officer B[redacted]:

The Department of Corrections Equal Employment Division ("EED") has completed its investigation of your report wherein you allege that you have been subjected to retaliation by Major M[redacted] W[redacted] (hereinafter "Major W[redacted]") and Lieutenant E[redacted] S[redacted] (hereinafter "Lt. S[redacted]"). Specifically, you allege that: (1) On or about December 4, 2014, you were ordered by Major W[redacted] to report to Lt. S[redacted] for an investigation interview; (2) the investigation was being conducted by Lt. S[redacted] and you were the target of said investigation; (3) Lt. S[redacted] is biased against you and should not have been assigned an investigation involving you because in 2011, he served as the union representative for a respondent in an EED investigation wherein you were the complainant; and (4) Major W[redacted] had knowledge of this history between you and Lt. S[redacted] and despite this knowledge, ordered you to report to Lt. S[redacted]. You also contend that based on the above, being ordered to report to Lt. S[redacted] was a violation of your rights. Please be advised that the EED did not substantiate a violation of the *Policy Prohibiting Discrimination in the Workplace* by Major W[redacted] and Lt. S[redacted].

Please be further advised that the Department of Corrections takes all allegations of retaliation seriously and such conduct will not be tolerated. In response to your report, an EED investigation was opened. The investigation revealed that the underlying administrative matter, in which you were involved, arose from an incident in the Close Custody Unit (hereinafter "CCU"). Lt. S[redacted] is the Area Lieutenant and is tasked with handling all matters, including administrative investigations, in the CCU. Further, the EED investigation did not reveal any evidence, through witnesses or otherwise, to support the allegation that Lt. S[redacted] subjected you to retaliation or handled the administrative investigation in a manner which demonstrated a bias against you. As such, the EED did not substantiate a violation of the *Policy* by the respondents.

If you wish to appeal this determination, you must submit a written appeal to the New Jersey Civil Service Commission, Division of Merit System Practices & Labor

Relations, Written Record Appeals Unit, P.O. Box 312, Trenton, New Jersey 08625-0312, postmarked or delivered within twenty (20) days of your receipt of this determination. The burden of proof is on the Appellant. Your appeal must include a copy of this determination, the reason for the appeal and the specific relief requested. Please be advised that pursuant to P.L. 2010, c. 26, effective July 1, 2010, there shall be a $20 fee for appeals. Please include a check or money order along with your appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee.

At this time, the EED also reminds you that the *Policy Prohibiting Discrimination in the Workplace* prohibits retaliation against any employee who files a discrimination complaint or participates in a complaint investigation or opposes a discriminatory practice. Furthermore, this matter remains confidential and the results of the investigation must not be discussed with others.

Sincerely,

Leila Lawrence

Leila Lawrence, Esq., Assistant Director
Equal Employment Division
Office of Legal & Regulatory Affairs

APPROVED: Gary M. Lanigan

Gary M. Lanigan
Commissioner

c: Edward Emrich, Associate Administrator/ASL

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