



STATE OF NEW JERSEY

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

In the Matter of Elizabeth Hulse,
Executive Assistant 3, Office of the
Public Defender

CSC Docket No. 2021-183

Examination Appeal

ISSUED: OCTOBER 2, 2020 (RE)

Elizabeth Hulse appeals the determination of the Division of the Agency Services (Agency Services), which found that she was below the minimum requirements in experience for a qualifying lateral examination for Executive Assistant 3.

By way of background, the appellant was appointed provisionally, pending a qualifying examination (PAQ), in the Executive Assistant 3 title effective June 6, 2020. Agency Services processed a qualifying examination for the appellant, dated July 30, 2020, to determine if she possessed the necessary qualifications for the subject title and determined that she did not meet the requirements for Executive Assistant 3. The requirements for Executive Assistant 3 are graduation from an accredited college or university with a Bachelor’s degree and four years of experience in program management with responsibility for planning, organizing, coordinating, staffing, reporting, and budgeting or in assisting an executive with program development and implementation. A Master’s degree in public administration, business administration, management, or other closely related field could be substituted for one year of experience. The appellant possessed the required Bachelor’s degree, did not possess a Master’s degree, and was found to be lacking three years, ten months of required experience.

On her qualifying examination application, the appellant indicated the following positions: Executive Assistant 3 from April 2020 to the filing date, two positions as Dispute Resolution Specialist 2, Advocate Representative 2/Mediator, Advocate Representative 2, and Secretarial Assistant 1. credited with two months of

experience in this title and her remaining experience was not accepted. As she did not meet the minimum requirements, she did not pass the qualifying examination for the subject title.

On appeal, the appellant indicates that she has four years of experience in program management which she accrued in her positions as Dispute Resolution Specialist 2 and Advocate Representative 2/Mediator. She states that she was responsible for planning, coordinating and staffing two New Home Warranty Arbitration Programs. She provides revised descriptions of her positions. In support, the Public Defender argues that Executive Assistant 3 and Dispute Resolution Specialist 2 are substantially similar in terms of responsibility for program management, program administration and policy implementation. He states that as a Dispute Resolution Specialist 2 the appellant oversaw the program in the absence of the Executive Director and assistance program management to develop, monitor, and implement programs within the office, as well as managing the program by overseeing all aspects of the arbitration claims process. He also indicates that while in her Dispute Resolution Specialist 2 positions, the appellant performed additional duties such as performing special studies or investigations, resolving problems and ensuring target dates and deadlines were met, and preparing informative reports.

CONCLUSION

N.J.A.C. 4A:4-7.6(c) provides, in pertinent part, regarding a lateral title change, that if the nature of the work, education and experience qualifications of both titles are dissimilar for a lateral title change, then the employee shall be appointed pending examination.

N.J.A.C. 4A:4-6.1(a)2 and (a)4 provide that a person may be denied examination eligibility or appointment when he or she is ineligible by law for employment in the title and/or has failed to pass examination procedures.

N.J.A.C. 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

At the outset if it is noted that the work, education and experience qualifications of Executive Assistant 3 and Dispute Resolution Specialist 2 are dissimilar. There so as to warrant a qualifying examination. It must be underscored that a "Qualifying Examination" requires the candidate to demonstrate on her qualifying examination application that she possesses the necessary education and experience for the subject title to affect a lateral transfer to the title. Additionally, in order for experience to be considered applicable, it must have as its primary focus full-time responsibilities in the areas required in the announcement. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004).

A Dispute Resolution Specialist 2 is responsible for assessing the disputant's needs and recommending a dispute resolution process to meet those requirements; acting as an arbitrator, case evaluator, conciliator, facilitator, fact-finder, mediator, or negotiator, and is responsible for designing and developing processes and systems for particular contexts or types of disputes; designs and administers training programs; assessing situations for appropriate alternative dispute resolution (ADR) intervention; developing, implementing, and monitoring dispute resolution programs; and promoting and encouraging dispute resolution processes; and determining the most appropriate dispute resolution process for disputes referred from the courts or other government/public agencies; and conducting facilitations regarding the development of new rules and policies through consensus building. The Executive Assistant 3 acts as staff and personal representative responsible for assisting in the execution of the division, agency, institution, or college function through the implementation of policy and the development, management, and control of plans, programs, and operations by employing accepted modern techniques of management.

There was no out-of-title work exhibited by the appellant in the original application and resume that indicated that the primary focus of any of her positions outside of her provisional position was the required experience. In her prior positions with the State, the appellant presented a list of duties that contained some aspects of executive assistance or program management. The appellant highlights various duties that compare with the required experience. However, each position can have only one primary focus. The duties performed most of the time and the importance of those duties, or the preponderance of the duties, identify the primary focus of the position. The description of duties listed on appeal does not support that the primary foci of her positions as listed on her qualifying examination and application and attachment were program management with responsibility for planning, organizing, coordinating, staffing, reporting, and budgeting, or assisting an executive with program development and implementation.

The appellant's two positions as Dispute Resolution Specialist 2 had differing duties. The primary focus of one of her positions as Dispute Resolution Specialist 2 was employee relations, preparing and serving disciplinary actions, scheduling hearings, and other human resource activities. The primary focus of the other position as Dispute Resolution Specialist 2, in the Office of Dispute Settlement, was managing and supervising the State's New Home Warranty Alternative Dispute Resolution Program. She was responsible for overseeing and assigning cases to arbitrators, overseeing the arbitration claims process, reviewing cases and providing instructions, following up on and providing information on cases, preparing an annual budget and contracts for the program, preparing reports, and acting as a mediator. Her duties in this position were to carry out the function of the program, not to assist an executive with program development and implementation, or to plan, organize, coordinate, staff, report, and budget for the program. Accordingly, it is clear

that neither of these positions provide qualifying experience. Even if the second position were qualifying, she performed these duties for one year, eight months, and would still fall two years, two months short of meeting the experience requirements for Executive Assistant 3.

The appellant's experience in her two positions as an Advocate Representative 2 is similar. In the first, her duties included mediation in court and non-court disputes, overseeing a panel of 10 arbitrators, and designing and providing dispute resolution training programs. There are some aspects of program management in oversight of the panel, however, mediation was the primary focus. The appellant did not indicate that managing the arbitration program took up the majority of her time and was the priority for the position. In her second position, she was involved in investigating and resolving disputes, negotiating, mediating, fact-finding and facilitating, intake of complaints, assisting constituents, and conducting outreach programs. Therefore, neither of these positions qualifying experience.

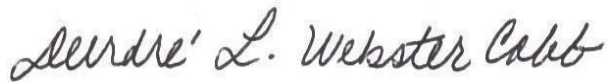
Agency Services correctly determined that the appellant did not pass the subject qualifying examination. Therefore, she has failed to support her burden of proof in this matter.

ORDER

Therefore, it is ordered that this request 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 30TH DAY OF SEPTEMBER, 2020



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