



STATE OF NEW JERSEY

In the Matter of R.A.,
New Jersey Motor Vehicle
Commission

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

CSC Docket No. 2019-2138

Administrative Appeal

**ISSUED: DECEMBER 15, 2021
(IMB)**

R.A., represented by Lisa Ciccone, IFPTE Business Representative, requests a waiver of the job requirements for Automotive Mechanic in the Division of Inspection Services, Enhanced Inspection and Maintenance Unit (EIMU), New Jersey Motor Vehicles Commission (MVC).

By way of background, R.A. was permanently appointed as an Automotive Mechanic, effective November 1999, and he continues to serve in the title. Prior to 2016, R.A. met the open competitive requirements for Automotive Mechanic. However, effective June 16, 2016, the job specification for Automotive Mechanic was revised to require appointees for positions assigned to the EIMU to possess the following credentials issued by the National Institute for Automotive Services Excellence (ASE):

- ASE Certification A-1 Engine Repair
- ASE Certification A-6 Electric/Electronic System
- ASE Certification A-8 Engine Performance

Appointees were also required to possess a valid certification as an Air Conditioning and Refrigeration Technician. Additionally, the job specification for Automotive Mechanic notes that affected appointees are required to maintain valid certifications and successfully complete the re-certification process within the required time frames. To become ASE certified, persons “must pass an ASE test and have the required amount of relevant hands on work experience (and) any expired certification can be reinstated”. As a result of the revision to the job specification, the MVC indicated that it would “provid[e] the training necessary for existing, impacted

employees to obtain the requisite certifications” and the MVC would fund “the cost of the training.”

It is noted that as of November 23, 2021, ASE confirms the certification status for R.A. as follows:

A-1R Engine Repair Recert expires on 12-31-2021
A-4R Suspension and Steering Recert expired 06-30-1997
A-5R Brakes Recert expired 12-31-2016
A-6R Electrical/Electronic System Recert Expired 6-30-2002
A-7R Heating and Air Conditioning Recert Expired 06-30-1997
A-8 Engine Performance Recert Expires 06-30-2023

Thus, since Automotive Mechanics are required to have current ASE certifications in the three areas noted above, and R.A. does not have a current ASE Certification A-6 Electric/Electronic System and his ASE Certification A-1 Engine Repair is set to expire on December 31, 2021, he is no longer eligible to serve in a position at EIMU.

In a letter dated January 29, 2019, the appointing authority explained to R.A. the revised requirements for Automotive Mechanics in the EIMU and that he is required to obtain the necessary certifications. The appointing authority also explained that in May 2017, it began the Americans with Disabilities Act (ADA) interactive process after being advised that R.A. had mentioned concern about taking the ASE required examinations. The appointing authority arranged for R.A. to be evaluated by the Division of Vocational Rehabilitation Services (DVRS), which ultimately recommended that he be provided with a reader or a device such as a scanner reader. The ASE consented to an accommodation for an increase in the regular exam time from 30 minutes to 60 minutes and for R.A. to take the examination in a private room. However, ASE would not consent to the provision of a reader. Therefore, the appointing authority advised R.A. that it had made a good faith effort to assist him in obtaining an accommodation with ASE, but that the MVC cannot require ASE, as a private entity, to provide him with the exact accommodations he is seeking. Accordingly, R.A. was informed that he could not remain in the title of Automotive Mechanic without the required ASE certifications. However, the appointing authority offered him a reassignment and demotional title change to a Safety Specialist 1 position assigned to the Mobile Inspection Team (MIT) at the Asbury Park Specialty Inspection Station. If he did not accept this option, the appointing authority advised R.A. that it would begin removal proceedings based on his inability to perform job duties due to not meeting the job requirements for an Automotive Mechanic. R.A. was given until February 14, 2019 to respond to the appointing authority’s offer.

Against this backdrop, R.A. submits the instant petition to the Civil Service Commission (Commission) to waive the “ASE testing requirement currently required

for my Automotive Mechanic position . . . due to my reading disability.” In this regard, he states that his accommodation request for an anxiety disorder and reading disability was denied by ASE in July 2017. In support of that request, the petitioner provides documentation dated June 8, 2017 from his psychotherapist diagnosing him with anxiety disorder which affects some aspects of his work and a letter from Dr. Michael Cascarina, dated November 29, 2016, stating that he may have a reading disorder. Thereafter, on August 6, 2017, the petitioner was administered a battery of tests by Janice Sarapin, LDTC, arranged by the DVRS, to determine his educational levels and presence of any learning disability in order to help him pass the tests required to retain his position. Sarapin reviewed the results of the test and indicated that R.A. had significant learning disabilities which would affect his ability to process reading and writing tasks and recommended that he, in pertinent part, be provided extra time when taking a test and have test instructions read to him and that spoken information be repeated to him more than one time for more complete multi-step sequences. The petitioner provided these results to the appointing authority and ASE, but on September 19, 2017, ASE denied his second request for an accommodation for a reader. Subsequently, on September 20, 2018, DVRS arranged for R.A. to undergo a psychological evaluation with Dr. Dennis Coffey to assist in confirming his reading disability and anxiety diagnosis. Dr. Coffey recommended that R.A. should have standardized testing read aloud to him. After reviewing Dr. Coffery’s report, ASE again denied the petitioner’s accommodation for a reader.

The petitioner explains that while he was arranging the various evaluations in support of his request for a reader with ASE, he continued to take the ASE examinations without a reader. R.A. indicates that he has taken the A-6 Electric/Electronic System test at least five times but has been unable to pass. Nevertheless, he has had satisfactory performance evaluations in his Automotive Mechanic position for 20 years as evidenced by his performance evaluations and his more than 40 years of experience as a mechanic. Moreover, he also states that, although the revised job specification also indicates that incumbents may be required to testify in court, it has never arisen and will likely never arise. Under these circumstances, the petitioner requests a waiver of the certification requirements required for Automotive Mechanic.

In response to an inquiry from Commission staff, ASE Director Denise Webb, informed this agency, MVC and R.A. via email dated January 20, 2020 that in accordance with ASE’s ADA appeals process requiring review of any additional documentation, ASE reviewed R.A.’s his documentation four times as of that date. R.A. had stated that he had questions concerning the ASE ADA accommodations appeal process which had not been answered by Webb. However, Webb stated that each submission of documentation from R.A. regarding his request for a reader was

reviewed as part of the appeal process even if he did not understand the ASE ADA appeal process.

It is noted that due to the COVID-19 pandemic and the work restrictions and modifications for State employees in addition to the temporary on-site closing of MVC services, offices and stations, R.A.'s job duties were limited to off-site modified activities not specifically requiring Automotive Mechanic job duties and responsibilities. However, on-site Automotive Mechanic have resumed because of the Governor's directive for return to work.

CONCLUSION

In accordance with *N.J.A.C.* 4A:3-3.3(a)3 and 4, the Commission's Chairperson or designee shall implement and administer the classification plans and, in this regard, shall . . . [m]odify specifications for existing titles or series to ensure their accuracy; and [n]otify appointing authorities and provide notice to other affected persons of changes in classification plans.

Also, pursuant to *N.J.A.C.* 4A:3-3.3(f), in State service, the agency representative shall provide notice to affected and potentially affected negotiations representatives upon submission of a job specification modification to the appropriate Commission representative. The Commission representative shall verify that proper notice has been given for job specification modification requests.

The record reflects that in accordance with the above noted provisions, effective June 16, 2016, the job specification for Automotive Mechanic was modified by the Commission to require appointees in the MVC's EIMU to possess the ASE Certifications A-1 Engine Repair, A-6 Electric/Electronic System and A-8 Engine Performance and a valid certification as an Air Conditioning and Refrigeration Technician.

Eligibility for appointment to Civil Service positions require appointees and incumbents to meet the requirements to serve in the position title absent any specific exception **regardless of the examination entity administering a position job requirement qualification** approved by the Commission, such as ASE certifications.

The job specification for Civil Service positions include the following in the "Knowledge and Abilities" section:

Persons with mental or physical disabilities are eligible as long as they can perform essential functions of the job with or without reasonable accommodation. If the accommodation cannot be made

because it would cause the employer undue hardship, such persons may not be eligible.

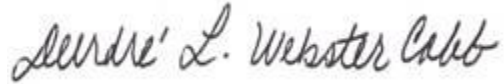
In the instant matter, R.A. did not, and has not, requested an accommodation to enable him to perform his essential job functions. Rather, he requests a waiver from ASE certification requirement for his Automotive Mechanic position in the EIMU. Under the provisions of *N.J.A.C. 4A:4-6.1(a)1*, a person “may be denied examination eligibility or appointment” when he or she “lacks the job requirements” for the position. In this case, the petitioner does not possess all the required ASE certifications for his position in the EIMU. Moreover, the petitioner, the appointing authority, and this agency have attempted to work with ASE since 2017 so that it would provide him the accommodation of a reader for its certification examinations. Notwithstanding these efforts, the ASE, an independent organization that is not under the jurisdiction of the Commission, has determined that it could only accommodate R.A. by providing him extra time to take the test and a private room. Although R.A. submitted various documentation for the Commission to consider in support of his request, the Commission does not have the authority to mandate the ASE to provide him with any recommended accommodation. Additionally, the fact that ASE will not provide the petitioner the accommodation of a reader does not establish good cause to waive possession of all the required ASE certifications for his position in the EIMU. While it is unfortunate that R.A. has had such a long and fruitful Automotive Mechanic career in State government, the certifications incumbents in the EIMU are required to possess are a critical component to the MVC’s continuing mission to ensure safety on New Jersey’s roads and highways. Therefore, the Commission is unable to waive the certification requirements, and consequently, R.A. can no longer encumber the Automotive Mechanic title.

Nonetheless, the MVC has indicated that as an alternative to removing R.A., R.A. could be reassigned to another unit and demotional title change to Safety Specialist 1. Therefore, R.A. will be provided one last opportunity to choose this option. Should he wish to pursue this option, he must advise the appointing authority of his decision and file the attached application for a Qualifying Demotional Examination by no later than December 30, 2021. The attached application of a Qualifying Demotional Examination should be sent to the Division of Agency Services for review and a determination made if R.A. qualifies for a Safety Specialist 1 position. Should R.A. be deemed ineligible for the position of Safety Specialist 1 or another available position that the MVC may offer for which he is qualified, or if he declines the voluntary demotion option, MVC should institute disciplinary proceeding to remove R.A. for cause.

ORDER

Therefore, it is ordered that this request be denied.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF DECEMBER, 2021



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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and
Correspondence

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Attachment

c: Dana Foraker
Lisa Ciccone
Division of Agency Services
Records Center

Application for Qualifying Examination

New Jersey Civil Service Commission

INSTRUCTIONS: Please print or type. Answer all pertinent questions and ensure that all information is accurate and complete. Sign your name in Block 9.

**FOR APPOINTING AUTHORITY
USE ONLY**

Return your completed application to your Personnel Office for approval. The Civil Service Commission will only accept Qualifying Applications that are approved by and submitted directly from the Appointing Authority.

Name of Appointing Authority:

Address:

Appointing Authority Signature:

Appointing Authority: By signing and submitting this application, you are affirming that the applicant's representation of his or her job duties while employed by your agency are true and accurate to the best of your knowledge and that any out-of-title work duties listed on this application were performed by the applicant and assigned out of business necessity. Your affirmation also serves as your request that the Civil Service Commission consider the applicant's out-of-title work experience when evaluating his or her eligibility for the title sought. Any false representations regarding out-of-title work will result in denial of the application.

Lateral Demotional Pre-Appointment Evaluation

1. Social Security Number:

2. Title of Qualifying Examination:

3. Name and Address:

Last:

First:

M.I.:

Street:

City:

State:

Zip Code:

E-mail address:

County:

Daytime Telephone(including area code):

BACKGROUND DATA

4. Education (Indicates the highest level Diploma or Degree you have earned):

High School Diploma or GED

(A) Associate's Degree

(M) Master's Degree

(S) Some College but No Degree

(B) Bachelor's Degree

(D) Doctorate

5. Check the county in which you prefer to take the examination. (Check one box only)

(1) Camden (2) Mercer (3) Essex (4) Monmouth (6) Atlantic (7) Bergen

6. ADA ASSISTANCE

Check the box if you would like to be contacted regarding auxiliary aid or reasonable accommodation in taking this examination in accordance with the Americans with Disabilities Act.

EMPLOYMENT INFORMATION

7. Present Permanent Title and Appointment Date:

Department/Agency:

Division, Bureau, or Institution:

Address:

Name and Title of Immediate Supervisor:

Telephone Number and Email Address of Immediate Supervisor:

* 8. Your Social Security number will be kept confidential and used as your applicant I.D. number to identify correctly and track all of your records and transactions associated with the application and testing process. Collecting this data is permissible under NJSA 11A:4-1, but its submission is voluntary. If you do not provide the number, a unique number will be assigned to you. However, once assigned, you will be responsible for remembering it for any inquiries you may have concerning your application or testing process.

9. SIGNATURE: I CERTIFY that the statements made by me in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I understand that if my application is incomplete, it may be rejected. (WARNING: The NJ Civil Service Commission may refuse to examine, or certify after examination, any applicant who makes a false statement of any material fact per NJAC 4A:4-6.2).

NOTE: Your application may be released to the Appointing Authority for the purpose of verifying information with regard to your qualifications.

FOR CSC ONLY

Signature _____ Date _____

Title of Qualifying Examination: _____ **Social Security Number:** _____

10. EDUCATIONAL SECTION - COLLEGE AND GRADUATE SCHOOL - List any colleges, universities, and graduate schools you have attended. If it is required in the job announcement, be sure to attach a copy of your transcript or a list of courses, course descriptions, and credits completed. Foreign degrees/transcripts must be evaluated by a recognized evaluation service.

What is the name and location of the college(s) you attended?	What years did you attend?	What was your major course of study?	What type of degree did you earn?	Did you graduate?	If NO, when will you graduate?	Number of credits earned?
	From: _____ To: _____			<input type="checkbox"/> Y <input type="checkbox"/> N	_____ Month/Year	
	From: _____ To: _____			<input type="checkbox"/> Y <input type="checkbox"/> N	_____ Month/Year	

11. OTHER SCHOOLS OR TRAINING COURSES - Include business, vocational, technical, or military schools you have attended, as well as any training courses that are **related** to the title for which you are applying. If it is not a full-time curriculum, be specific as to the number of hours attended.

What is the name & location of school/facility where course(s)/training was held?	What classes did you take?	What were the dates you attended?	How many hours per week did you attend?	Did you complete the program?
		_____ Month/Year TO _____ Month/Year		<input type="checkbox"/> Y <input type="checkbox"/> N
		_____ Month/Year TO _____ Month/Year		<input type="checkbox"/> Y <input type="checkbox"/> N

12. Use this space to describe any internships, licenses, certifications or registrations that you possess which are related to the position for which you are applying.

<p>A. What type of license(s), certification(s), and/or registration(s) do you hold?</p> <p>In which state(s) do you hold the license(s), certification(s), and/or registration(s)? _____</p> <p>B. What was the original issue date of the license(s), certification(s), and/or registration(s)?</p> <p>What is the date of your current license(s), certification(s), and/or registration(s)? _____</p>	<p>C. What type of internship(s) have you completed?</p> <p>Where was the internship(s) completed? _____</p> <p>What were the dates of the internship(s)? _____</p> <p>How many hours per week did you take part in the internship? _____</p> <p>Was it part of a college curriculum? <input type="checkbox"/> Y <input type="checkbox"/> N</p>
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13. EMPLOYMENT RECORD - If you do not properly complete your application you may be declared ineligible. If you held different positions with the same employer, list each position separately. Make sure you give full dates of employment (month/year), indicate whether the job was full or part time, and the number of hours worked per week. Since your application may be your only "test paper," be sure it is complete and accurate. Failure to complete your application properly may cause you to fail. If more space is needed, attach separate sheets.

<p>A What is the name and address of your current employer?</p> <p>What dates have you been employed in this position? From: _____ To: _____ Month/Year Month/Year</p>	<p>What is your title in this position? _____</p> <p>Is this position: <input type="checkbox"/> FULL TIME? <input type="checkbox"/> PART TIME? (Average No. hrs. per wk.) - - - - -</p> <p>How many staff members do you supervise? Professional Staff _____ Support Staff _____</p>	<p>What duties do you perform in this position that are relevant to the position for which you are applying? _____ _____</p>
<p>B What was the name and address of your previous employer?</p> <p>What dates have you been employed in this position? From: _____ To: _____ Month/Year Month/Year</p>	<p>What was your title in this position? _____</p> <p>Was this position: <input type="checkbox"/> FULL TIME? <input type="checkbox"/> PART TIME? (Average No. hrs. per wk.) - - - - -</p> <p>How many staff members do you supervise? Professional Staff _____ Support Staff _____</p>	<p>What duties did you perform in this position that are relevant to the position for which you are applying? _____ _____</p>
<p>C What was the name and address of your previous employer?</p> <p>What dates have you been employed in this position? From: _____ To: _____ Month/Year Month/Year</p>	<p>What was your title in this position? _____</p> <p>Was this position: <input type="checkbox"/> FULL TIME? <input type="checkbox"/> PART TIME? (Average No. hrs. per wk.) - - - - -</p> <p>How many staff members do you supervise? Professional Staff _____ Support Staff _____</p>	<p>What duties did you perform in this position that are relevant to the position for which you are applying? _____ _____</p>