



**STATE OF NEW JERSEY**

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

In the Matter of V.C., Department of  
Law and Public Safety

CSC Docket No. 2022-2521

Discrimination Appeal

**ISSUED:** August 2, 2023 **(EG)**

V.C., a former Deputy Attorney General (DAG)<sup>1</sup> with the Department of Law and Public Safety, appeals the determination of the Chief Ethics and Compliance Officer, stating that there was probable cause to substantiate a finding that she violated the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

A complaint was filed by J.S., a DAG, alleging discrimination in violation of the State Policy which was investigate by the Attorney General’s Office of Equal Employment Opportunity (EEO). During the investigation into that claim, the EEO became aware of allegations that the appellant had failed to report misconduct as a supervisory employee as required under the State Policy. In a statement to the EEO from the appellant, the appellant indicated that at a “Happy Hour” in late 2017 or early 2018, H.G., a Legal Secretary, said something to the effect that if H.G. could have a threesome it would be with J.S. and somebody else. The appellant acknowledged hearing the statement and not reporting it. Separately, the appellant reported that in September 2019, H.G. called J.S. a “bitch” while speaking to the appellant in the appellant’s office. The appellant added that she was not aware that the word “bitch” violated the State Policy and stated that she was not a supervisory employee. The EEO explained to the appellant that she was a supervisor and that the use of the word “bitch” was a State Policy violation. Therefore, it found State Policy violations and the appellant was sent for further State Policy training.

<sup>1</sup> Official records indicate the appellant separated from State service, effective April 25, 2022.

On appeal, the appellant contends that the EEO did not follow its normal procedures for investigations when it did not grant her the opportunity to review her statement. Additionally, the appellant argues that the threesome remark occurred at a place that could not be considered an extension of the workplace. She asserts that the remark was heard at bar, which could not reasonably be regarded as a field location or facility where State business is conducted or discussed. She adds that she was not at an off-site business-related social function. The appellant claims that the social function was not arranged for the purpose of conducting or discussing State business. She adds that the only relation to the State was that most of the attendees were State employees. Further, the appellant argues that she is not a supervisory employee. She asserts that she is not a manager, she does not hold any leadership title, duty or responsibility, nor is she a project leader. The appellant requests that this matter be dismissed and removed from her personnel file.

In response, the EEO asserts that the reason appellant did not receive the opportunity to come in and review her statement was that this occurred during the Covid-19 pandemic, and operating procedures changed during this time frame to maintain social-distancing guidelines. In addition, the EEO argues that the gathering at the bar did meet the requirements set forth in the State Policy as it was an off-site business-related social function. The fact that the Happy Hour occurred after work hours, off-site, and was not a formal employer-sponsored event, but rather an informal event organized by co-workers, does not remove it from the scope of the definition of an “extension of the workplace” as indicated in the State Policy. In this regard, it contends that since the Happy Hour was a gathering organized by her co-workers, and these employees interacted and socialized with each other during the event, the State Policy applied to this situation. Further, the EEO argues that the appellant is a supervisor under the State Policy. It asserts that as a DAG, the appellant exercised considerable control over the work environment of the secretary assigned to her as well as the paralegals assigned to assist her on her cases. She directly oversaw the work of the secretary and paralegals and directed them with respect to the performance of their daily tasks. Finally, the EEO explains that in cases such as this where no disciplinary action was issued and only training was recommended, no record of the substantiation or training is included in the employee’s personnel file.

## 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, *N.J.A.C.* 4A:7-3.1(a)1 states that his policy also applies to conduct that occurs in the workplace and conduct that occurs at any location that can be reasonably regarded as an extension of the workplace (any field location, any off-site business-related social function, or any facility where State business is being conducted and discussed). This policy also applies to posts on any social media site and/or electronic device, personal or business, that adversely affects the work environment defined by the State Policy.

Further, *N.J.A.C.* 4A:7-3.1(e) provides 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).

In the instant matter, the Civil Service Commission (Commission) has conducted a review of the record and finds that the EEO conducted an adequate investigation. It found that the appellant violated the State Policy when she he failed to timely report that H.G. had called J.S. a "bitch" and that H.G. had stated that she could be in a threesome with J.S. The appellant argues that the bar where she heard the threesome comment cannot be considered an extension of the workplace and thus, could not result in a State Policy violation. The EEO contends that the fact the incident occurred off-site, after work hours, and was not sponsored by the State, does not remove it from the scope of the definition of an "extension of the workplace" as indicated in the State Policy in this matter. The Commission agrees. The gathering was organized by the appellant's co-workers, and these co-workers interacted and socialized with each other during the event. The appellant herself acknowledged that the bar's attendees were mostly State employees. Thus, in the instant matter, the inappropriate comment made at the bar is covered under the State Policy.

Further, the appellant contends that she is not a supervisory employee, and as such, did not have a duty to report State Policy violations. The EEO contends that the appellant is a supervisor under the expanded definition of supervisor in the State Policy. It argues that as a DAG, the appellant exercised considerable control over the work environment of the secretary assigned to her as well as the paralegals assigned to assist her on her cases. The Commission again agrees with this finding. In her position as a DAG, the appellant directly oversaw the work of the secretary assigned to her and the paralegals who assisted and had the authority to direct them with

respect to the performance of their daily tasks. Therefore, the appellant meets the definition of a supervisor as provided in the State Policy and had a duty to report State Policy violations she witnessed or was informed about.

Moreover, the appellant's request that this matter be removed from her personnel file was met as the EEO states that it was never put in her file as no discipline had been recommended. Accordingly, based on the foregoing, the Commission finds that the EEO's investigation was thorough and impartial, and a sufficient basis exists to find that the appellant violated the State Policy.

**ORDER**

Therefore, it is ordered that this appeal 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 2<sup>ND</sup> DAY OF AUGUST, 2023



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