



STATE OF NEW JERSEY

In the Matter of B.C., Family Service
Specialist 1 (PS8271K), Department
of Children and Families

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

CSC Docket No. 2025-1769

Examination Appeal

ISSUED: April 9, 2025 (SLK)

B.C., a Family Service Specialist 2 (FSS2) with the Department of Children and Families (DCF), requests a waiver of examination for persons with disabilities for the promotional examination for Family Service Specialist 1 (FSS1) (PS8271K), DCF.

By way of background, B.C. applied for the subject promotional examination, which had a September 23, 2024, closing date. A total of 587 employees applied. The examination was open to employees who had one year of continuous permanent service as a FSS2 or FSS2, Bilingual in Spanish and English by the subject examination closing date. Personnel records indicate that B.C. was permanently appointed as a FSS2 on July 25, 2015. A written test will be administered for the subject examination. However, the test administration has not yet been scheduled.

Initially, DCF requested a waiver of examination on B.C.'s behalf due to his disability pursuant to *N.J.A.C. 4A:4-2.14*. In support of the request, DCF highlighted B.C.'s 'Exceptional' performance assessment review (PAR) as a FSS2. It noted that the job duties, education and experience for the FSS2 title are substantially similar to the FSS1 title so it stated that it appeared that he may be able to successfully perform duties in the FSS1 title. However, the DCF acknowledged that incumbents in the FSS1 title perform many different functions, including but not limited to Permanency, Impact, Regional Reviewer, Court Liaison, Litigation Specialist, Intake, Adolescent, Adoption, or Resource Development Specialist. Therefore, it stated,

without knowing the “actual conditions of service,” it was unable to certify that B.C. could satisfactorily perform the duties of the FSS1 title. Further, the DCF indicated that B.C. previously applied for a FSS1 (PS8575K), DCF promotional examination. However, it presented that B.C.’s name did not appear on the eligible list, and it did not have knowledge as to why that was the case or if he had asked for an accommodation. Additionally, DCF submitted a physician’s statement which recommended, due to the severity of B.C.’s learning disorder, that he be given a test waiver. Moreover, it attached an email where B.C. indicated that he would agree to undergo any additional physical or psychological examination that the Civil Service Commission’s Chairperson or designee deems appropriate.

In response, the Chairperson’s designee (designee) noted that DCF was unable to state that B.C. could satisfactorily perform FSS1 responsibilities under conditions of actual service as required for the waiver. Instead, DCF only indicated that B.C. was successfully performing his FSS2 duties, and he met the eligibility requirements for the FSS1 title. The designee also highlighted that B.C. previously passed tests for Supervising FSS2 (PS8313K and PS0704K) promotional examinations. Further, the designee acknowledged that B.C. had not passed a prior FSS1 (PS4824K) written test for a promotional examination in that title. Moreover, the designee presented that B.C. had requested Americans with Disabilities Act (ADA) accommodations on his application for the subject examination and prior examinations including a Supervising FSS2 test, which was administered on October 15, 2022 (this was one test with two symbols for different unit scopes). Additionally, the designee noted that the B.C. passed the test for the Supervising FSS2 title, which is a higher title than the subject title. Finally, the designee emphasized that the psychological assessment which opined that B.C. was “fundamentally unable to take the examination” did not examine B.C.’s testing history or provide why prior accommodations are no longer acceptable. Therefore, the designee denied B.C.’s request for a waiver of examination for the subject test but indicated that he will receive the proper accommodation once the test is scheduled.

On appeal, B.C. presents that DCF provided a statement that he is currently performing satisfactory regarding his current FSS2 title. He asserts that no one who is deemed eligible to take promotional examination is approved based on their perceived ability to perform the job duties and approval to take a promotional examination is based solely on meeting that examination’s education and experience requirements. Moreover, B.C. contends that the responsibilities of a FSS1 and FSS2 mirror each other, and PARs to evaluate incumbents in these titles are identical. Therefore, he argues that there is no differentiation between the performance expectations for the two titles. B.C. believes that because he received the highest rating on his FSS2 PAR, this demonstrates that he can perform the duties of a FSS1.

Regarding B.C.’s updated physician’s assessment, he highlights that the doctor indicated that his condition left him unable to take the test. He notes that the

designee found the physician's assessment insufficient because it did not address his testing history or provide why prior accommodations are no longer acceptable. B.C. presents that in 2018, he was granted an accommodation to have a reader and take more time to take the test based on his primary care physician's recommendation. However, he asserts that the current physician evaluation described his condition in detail and why the doctor opined that a waiver is appropriate.

Concerning B.C.'s testing history, he argues that the designee wrongfully included his Supervising FSS2 test when it denied his request as the Civil Service rule states "that title" and not "all titles." Therefore, he believes only FSS1 tests should be considered in the analysis under the rule. He presents that he only applied for one prior FSS1 (PS8306K) promotional examination. B.C.'s highlights that he was given an accommodation which included a reader and additional time. However, he provides that he did not pass the test. He submits documentation to show that PAR standards are listed by functional titles, that his functional title was intake worker, his PAR history demonstrating satisfactory performance since 2016, the current physician evaluation, his primary care physician's prior evaluation, his examination application history, and a letter from a staff member in this agency recommending that he request a waiver of examination. B.C. emphasizes the additional measures without compensation he takes to ensure that he performs his current job well and how, throughout his career, he has completed his work in a timely fashion. He states that supervisors ask him to take on additional tasks, including tasks performed by FSS1s.

CONCLUSION

N.J.A.C. 4A:4-2.14(a) provides that otherwise qualified applicants with disabilities may request an accommodation in taking an examination by indicating their request on the examination application. *N.J.A.C.* 4A:4-2.14(a)1 provides that upon receipt of the request for accommodation, Commission staff shall make reasonable accommodation where appropriate and notify the candidate of the arrangements.

N.J.A.C. 4A:4-2.14(b) provides that the Chairperson or designee may waive an examination for an otherwise qualified candidate or provisional with a physical, mental, or emotional affliction, injury, dysfunction, impairment, or disability that makes it physically or psychologically not practicable to undergo the testing procedure for a particular title but does not prevent satisfactory performance of the title's responsibilities under conditions of actual services.

1. A request for waiver shall be in writing, filed with the Chairperson or designee and contain:

- i. The examination's title and symbol number, or in the case of a provisional, his or her title and employer;
- ii. A statement from an appointing authority utilizing the title that the individual can satisfactorily perform the duties of that title under actual conditions of service;
- iii. A physician's statement with support documentation;
- iv. Whether the individual has previously filed for or taken an examination for that title, the results, if any, and whether an accommodation has previously been made; and
- v. Agreement to undergo any additional physical or psychological examinations that the Chairperson or designee deems appropriate.

N.J.A.C. 4A:4-2.14(c) provides that if reasonable accommodation can be made, the waiver request will be denied, and arrangements will be made for such accommodation.

N.J.A.C. 4A:4-2.14(d) provides that if reasonable accommodation is not possible, the Chairperson or designee will decide whether to grant a waiver, and if granted, whether the candidate will be employed or placed on an eligible list and in appropriate cases, granted seniority.

Initially, it noted that the State Constitution provides, in pertinent part, that promotion in the civil service of the State, shall be made according to merit and fitness to be ascertained, as far as practicable, by examination, which, as far as practicable, shall be competitive. *See State Constitution*, Article VII, Section 1, Paragraph 2. Therefore, if reasonable accommodation can be made, the waiver request will be denied, and arrangements will be made for such accommodation. *See N.J.A.C.* 4A:4-2.14(c).

In this matter, the designee correctly denied B.C.'s request for the waiver of the subject examination as his request does not meet all the criteria under *N.J.A.C.* 4A:4-2.14(b). Specifically, B.C. indicates that his current function as a FSS2 is intake. However, DCF presented that incumbents in the subject title can perform different functions, including but not limited to Permanency, Impact, Regional Reviewer, Court Liaison, Litigation Specialist, Intake, Adolescent, Adoption, or Resource Development Specialist. Therefore, DCF could not state that B.C. could satisfactorily perform the duties under actual conditions of service as required for the waiver of examination. *See N.J.A.C.* 4A:4-2.14(b)ii.

B.C. argues that his “Exceptional” PAR rating and DCF’s statement that he is satisfactorily performing his FSS2 duties demonstrate that he can successfully perform the duties of a FSS1. However, this is only evidence that he is performing his current duties well and is not evidence, by itself, that he can successfully perform the different functions that he may be asked to perform as a FSS1.

Concerning B.C.’s assertion that the FSS1 and FSS2 titles are essentially the same, a review of the job specification indicates, that while there is some overlap, there are some key differences.

The definition section of the FSS2 job specification states:

Under direction of a Supervising Family Service Specialist 2 or other supervisory official in the Department of Children and Families, performs field and office work to:

- Screen allegations of child abuse and/or neglect; and/or
- initiate or conduct various types of investigations, including child welfare assessments or abuse and/or neglect referrals in problematic, high-risk family situations, in-home supervision, residential placement; and/or
- conduct assessment, recruitment, and placement in resource family/foster homes, adoption related work, and placement supervision; and/or
- manages various aspects of court involved cases; and/or
- refer families for services; and/or
- facilitate Family Team Meetings; and/or
- collect, record, and analyze significant facts, draw conclusions, and determine appropriate action;
- does other related duties as required.

The definition section of the FSS1 job specification states:

Under direction of a Supervising Family Service Specialist 2 or other supervisory official in the Department of Children and Families, handles a caseload of clients and performs field and office work to:

- Screen allegations of child abuse and/or neglect; and/or
- initiate or conduct various types of investigations, including child welfare assessments or abuse and/or neglect referrals in problematic, high-risk situations, in-home supervision, residential placement; and/or

- conduct assessment, recruitment, and placement in resource family/foster homes, adoption related work and placement supervision; and/or
- assist supervisory staff in developing, coordinating, and facilitating social programs using sophisticated social work skills, including engagement, analysis, assessment group work, and/or individualized therapeutic interaction with clients; and/or
- assist in developing needed services, additional resources, and training programs; and/or
- provide direct treatment/counseling services, Family Team Meetings, and referrals for family services to a high-risk caseload requiring intensive intervention; and/or
- manage various aspects of court involved cases;
- does other related duties as required.

In other words, in addition to overlapping duties, FSS1s perform higher-level duties including assisting supervisory staff in developing social programs and assisting in developing services, resources, and training programs. Further, an FSS1's work involves high-risk caseloads requiring intensive intervention. Therefore, B.C.'s successful service as a FSS2, does not, by itself, demonstrate that he will be successful performing the higher-level FSS1 duties.

Regarding B.C.'s statement that other candidates are not determined eligible for promotional examinations based on perceived ability to perform duties but based on the examination's eligibility requirements, this is normally the case because it is the competitive testing that demonstrates that a candidate can satisfactorily perform the duties of that title under actual condition of service even though the candidate has yet to perform said duties. However, in this case, where B.C. is asking for the requirement for testing be waived, especially in a competitive examination situation such as here where there are over 500 candidates, a statement from the appointing authority is required to indicate that the candidate can satisfactorily perform the duties of the promotional title under actual conditions of service. However, since DCF is unable to provide the required statement, the waiver of the examination is not appropriate.

Referring to B.C.'s belief that it was inappropriate for this agency to deny his request, in part, based on his passing a prior Supervising FSS2 where he received an ADA accommodation, because the subject rule only refers to prior tests for that title, while B.C.'s argument is based on a literal reading of the rule, it is logical to factor in the subject determination B.C.'s demonstrated ability to pass a written test with accommodations for a higher-level title within the title series. Moreover, even if B.C.'s argument for a literal reading of the rule is accepted, this contradicts his overall argument because a literal reading of the rule also requires DCF to provide a

statement indicating that he can perform the promotional duties and it has stated that it cannot.

Concerning the current physician's evaluation, the record indicates that B.C.'s primary physician in 2018 indicated that he should be given ADA accommodations for testing. Further, the record indicates that in 2022, B.C. passed a Supervising FSS2 examination with ADA accommodations. The current physician evaluation does not address the issue as to whether B.C.'s condition has worsened since 2022 which would signify that he can no longer pass a written test with accommodations. Therefore, it was reasonable for the designee to need additional information as to why B.C. can no longer take a written test when he was able to successfully do so in the past with an accommodation. Even assuming, *arguendo*, that the current physician explains what has changed, this alone is not sufficient for the requested waiver, since, as indicated previously, DCF has indicated that it cannot state that B.C. can successfully perform the subject promotional duties.

Finally, regarding the statement from a staff member from this agency who suggested that B.C. apply for the subject waiver of examination, this was only a recommendation, and it is only the Chairperson or the Chairperson's designee who makes the initial determination as to whether the request is granted. *See N.J.A.C. 4A:4-2.14(b)*.

ORDER

Therefore, it is ordered that this request 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 9TH DAY OF APRIL, 2025



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: B.C.
Linda Dobron
Office of the Chair/Chief Executive Officer
Records Center