



STATE OF NEW JERSEY

In the Matter of D.H., Department of
Corrections

**DECISION OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2025-1837

Discrimination Appeal
Hearing Granted

ISSUED: August 13, 2025 (HS)

D.H., a Supervisor of Education Programs (SOE) 1 with the Department of Corrections, appeals the determination of the Chief of Staff, which found that the appellant failed to present sufficient evidence to support a finding that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant, an African American, filed a complaint with the Equal Employment Division against respondent J.C., a member of the Senior Executive Service, alleging discrimination based on race. Specifically, the appellant identified concerns that her Master's degree was not appropriately considered when her initial salary for the position of Assistant Supervisor of Educational Programs (ASOE) was calculated and offered at \$96,626.85 (salary range R26, step 7) in June 2023. The appellant based her allegations of discrimination on the higher starting salaries of three Caucasian employees who were hired into similar roles in or around 2023. She claimed that an SOE without a Master's degree and two other ASOEs, one of whom had no supervisory experience prior to assuming the ASOE role, all received higher starting salaries based on the fact that they were Caucasian. The appellant complained that her SOE colleagues made \$115,229.49 in the second quarter of 2024, which had since been increased to \$119,262.55 with a 3.5% salary increase, while her salary was significantly less at \$110,780.47. The investigation did not find that the appellant was discriminated against based on race or any other protected category. As the respondent did not assume the role of human resources director until December 2023, two months after she was appointed to her original ASOE position

on October 7, 2023, she was involved neither in the appellant's hiring processes nor her initial salary calculation. Moreover, evidence confirmed that the appellant's Master's degree was considered in determining her starting salary offer of salary range R26, step 7, because it represented an exception to the current policy not to exceed step 4 when hiring into her original ASOE position. *See N.J.A.C. 4A:3-4.4(a)* (appointing authority may place new employee at salary step up to and including fourth step of salary range). The personnel records of the employees named in the complaint as potentially receiving preferential treatment with regard to salary or promotional status were also reviewed. There was no finding of anything other than legitimate calculations based upon length of employment, education, and other appropriate factors. As such, the Chief of Staff did not substantiate any violation of the State Policy based on a protected category.

On appeal to the Civil Service Commission (Commission), the appellant takes issue with the determination that her step 7 placement accounted for the educational incentive program. Specifically, she proffers: (1) step 4 was never an option due to her prior salary of \$96,008.00 as a teacher, and the Division of Educational Services provided a salary justification to bring her in at step 7 to avoid a significant pay reduction; (2) the educational incentive was not factored into her original ASOE salary but was only applied after her promotion to SOE 1 on February 24, 2024; and (3) F.Z., a Caucasian, was appointed SOE 1 at step 7 and received the educational incentive in addition to his salary, which reflects inconsistent and unfair application of the policy in her case. She maintains that had the educational incentive been applied in conjunction with her ASOE appointment, her salary would have been set not at \$96,626.85 (salary range R26, step 7) but at \$100,166.96 (salary range R26, step 8), effective October 7, 2023. Therefore, the appellant requests the following actions: a retroactive adjustment to her base salary to reflect the educational incentive from the start of her tenure; back pay for the educational incentive that was withheld from her salary since her original hire date; and a detailed explanation of the educational incentive policy and its application.

In response, the appointing authority maintains that the investigation revealed that the appellant's Master's degree was appropriately considered in determining her starting salary offer of salary range R26, step 7, because it represented an exception to the current policy not to exceed step 4 when hiring into her original ASOE position. The appellant did not provide any additional evidence supporting her discrimination claim, and there are other personnel-related factors that affect each employee's salary, range, step, and potential incentives, which was concretely confirmed with human resources staff during the course of the investigation. The appointing authority insists that the instant appeal provides no evidence to controvert the findings of the investigation.

In reply, the appellant insists that as an ASOE, she was recorded as being at step 7, but there was never any adjustment made to move her to step 8 to account for

her Master's degree. In addition, the appellant again highlights the circumstances of F.Z., who started as an SOE 1 at step 7 and was automatically advanced to step 8 to account for his Master's degree within a few months. The appellant claims that F.Z. told her that he did not need to request this adjustment; rather, it was done for him. He came in under a different title, SOE 1, but still received the educational incentive as part of his salary without having to initiate the process himself.

In reply, the appointing authority reiterates that it conducted a thorough investigation and came to the correct conclusion.

CONCLUSION

It is a violation of the State Policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories. *See N.J.A.C. 4A:7-3.1(a)3*. The protected categories include race, creed, color, national origin, nationality, ancestry, age, sex/gender, 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. *See N.J.A.C. 4A:7-3.1(a)*. A violation can occur even if there was no intent on the part of an individual to harass or demean another. *See N.J.A.C. 4A:7-3.1(b)*. The State Policy is a zero tolerance policy. *See N.J.A.C. 4A:7-3.1(a)*. The appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C. 4A:7-3.2(m)4*.

N.J.A.C. 4A:7-3.2(m) provides that the Commission shall decide a discrimination appeal on a review of the written record or such other proceeding as it deems appropriate. *N.J.A.C. 4A:2-1.1(d)* provides that an appeal will be reviewed on the written record, except where a hearing is required by Civil Service law or rules or where the Commission finds that a material and controlling dispute of fact exists that can only be resolved by a hearing.

The Fiscal Year 2023 Compensation Compendium included an educational incentive program for teachers, the terms of which were as follows:

1. Employees serving in one of the titles indicated below are eligible for this incentive program.
2. Effective on the first pay period following presentation of a Master's Degree by an employee to the appointing authority, the salary of the employee is adjusted upward by the amount of one increment of the salary range assigned to the employee's title.
3. Effective on the first pay period following presentation of a Doctorate Degree by an employee to the appointing authority, the salary of the

employee is adjusted upward by the amount of one increment of the salary range assigned to the employee's title.

4. This program is not applied to the Master's Degree which is necessary to meet the minimum educational requirements for the title held by the employee. An employee receives only one additional increment for possession of a Master's Degree and one additional increment for possession of a Doctorate Degree.
5. Application of this program may result in a rate beyond the maximum step of the salary range assigned to the employee's title. In such cases, the additional amount is recorded as extra salary. Future adjustments due to across-the-board increases, promotion or reevaluation are based upon total salary, including extra salary, until termination of employment in an eligible title.
6. Implementation of this program is by submission of individual personnel actions citing this Salary Regulation.

<u>Title</u>	<u>Title Codes</u>
ASOE	72756/72744
Instructor, CBVI 12 Months	62663
Instructor 1, 12 Months	75475
Instructor 1 Education, 10 Months	73093
Instructor 1 Education, 12 Months	73193
Instructor 2 Education, 10 Months	73092
SOE 1	72760/72745
SOE 2	72758/72753
Teacher 1, 12 Months	75293
Teacher 2, 10 Months	75282
Teacher 2, 12 Months	75292
Teacher 3, 12 Months	75291

SR23:3G. The compendium also included the following regulation on salary adjustments:

1. Any salary adjustment not specifically authorized by these regulations must demonstrate extraordinary justification and compelling need for such action. Such request shall be submitted on a DPF-77 and shall include required evaluative comments and recommendation of the department head.
2. The following actions also require the approval of the Chair/Chief Executive Officer, Civil Service Commission and the Director, Office of Management and Budget:

- a. Hiring above the authorized hiring rate for a title
- b. Compensation for serving in a higher capacity than an employee's current title
- c. Negative salary adjustment¹

Agency records indicate that the appellant was appointed to the ASOE title, effective October 7, 2023, at a salary of \$96,626.85 (salary range R26, step 7). In conjunction with the appointment, the appointing authority had submitted a DPF-77, which requested the noted range and step; indicated that the appellant possessed a Master of Science degree in Leadership in Education Administration since 2014; and gave as justification for the request that it was “imperative to fill this position in order to maintain operational effectiveness and continuity.” Thereafter, the appellant was promoted to the SOE 1 title, effective February 24, 2024, at a salary of \$102,936.67 (salary range R29, step 5) by application of *N.J.A.C.* 4A:3-4.9 (Advancement pay adjustments: State service), before application of the educational incentive. The appointing authority gave as justification for this salary that it was “imperative to fill this management position in order to maintain operational effectiveness and continuity. [The appellant] has experience and holds required certifications from the NJDOE including a Standard Certification Supervisor certificate.” Additionally, a second personnel action was entered that specifically made reference to the educational incentive program for teachers (“Salary increase due to special incentive programs”). Thus, the appellant’s salary on promotion to SOE 1, effective February 24, 2024, was \$107,034.27 (salary range R29, step 6).

Agency records also indicate that F.Z. was appointed to the SOE 1 title, effective September 9, 2023, at a salary of \$111,131.87 (salary range R29, step 7), before application of the educational incentive. In conjunction with the appointment, the appointing authority had submitted a DPF-77, which requested the noted range and step; indicated that the appellant possessed a Masters in Administration and Supervision since 2007; and gave as justification that it was to “fill a vacancy and to provide direction for the administrative, custodial, treatment and educational programs for the Office of Educational Services.” Additionally, a second personnel action was entered that specifically made reference to the educational incentive program for teachers (“Additional increment due to Master’s degree pursuant to Compensation Compendium SR23:3G2; employee presented Masters degree on date of hire. Increment was mistakenly not included at that time.”). Thus, F.Z.’s salary on appointment to SOE 1, effective September 9, 2023, was \$115,229.47 (salary range R29, step 8).

¹ The Fiscal Year 2023 Compensation Compendium issued September 13, 2022. The salary regulations contained therein were extended, pending the issuance of the Fiscal Year 2024 Compensation Compendium. The Fiscal Year 2024 Compensation Compendium issued May 23, 2024, and the educational incentive program for teachers and salary adjustment regulation were continued therein. See SR24:3G.

Based on the above-described records, there is a material dispute of fact as to whether the educational incentive was in fact applied at the time of the appellant's appointment to the ASOE title, and if not, whether such action was based on the appellant's race. The appointing authority contends that the appellant's Master's degree was appropriately considered in determining her starting salary offer of salary range 26, step 7, because such salary represented an exception to the rule that an appointing authority may place a new employee at a salary step up to and including the fourth step. However, implementation of the educational incentive program for teachers was "by submission of individual personnel actions citing this Salary Regulation." Although a DPF-77 was submitted in conjunction with the appellant's ASOE appointment, that document offered, as justification for the salary, only that it was "imperative to fill this position in order to maintain operational effectiveness and continuity." The document does not cite the educational incentive program salary regulation, and there is no separate personnel action citing the educational incentive program salary regulation on the appellant's record in conjunction with the ASOE appointment. This stands in contrast to the manner in which F.Z.'s salary was set in conjunction with his appointment to SOE 1. There, a DPF-77 was submitted to justify setting his salary at salary range 29, step 7, and a further personnel action was entered, specifically citing the educational incentive program salary regulation, to bring F.Z.'s salary to salary range 29, step 8. Moreover, the additional increment granted F.Z. was provided on a retroactive basis based on the comments associated with that personnel action ("Additional increment due to Master's degree pursuant to Compensation Compendium SR23:3G2; employee presented Masters degree on date of hire. Increment was mistakenly not included at that time."). Thus, whether the appellant received the incentive in conjunction with her ASOE appointment cannot be determined on this record.

Also worth noting is the disparity between the salaries of F.Z. and the appellant on commencement of their respective SOE 1 appointments. In this regard, F.Z.'s salary was set at \$111,131.87 (salary range R29, step 7), before application of the educational incentive. Justification for the salary was to "fill a vacancy and to provide direction for the administrative, custodial, treatment and educational programs for the Office of Educational Services." The appellant's salary was set at \$102,936.67 (salary range R29, step 5), again before application of the educational incentive. Justification for the salary was that it was "imperative to fill this management position in order to maintain operational effectiveness and continuity. [The appellant] has experience and holds required certifications from the NJDOE including a Standard Certification Supervisor certificate." What explains the disparity, when the justifications offered for the respective salaries were similar, is not readily apparent on this record.

Under the foregoing circumstances, where material disputes of fact that cannot be resolved on the written record exist, the matter should be referred to the Office of

Administrative Law for a hearing to determine whether the appellant's allegations of discrimination in violation of the State Policy are substantiated.

ORDER

Therefore, it is ordered that this matter be referred to the Office of Administrative Law for a hearing as a contested case.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 13TH DAY OF AUGUST, 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: D.H.
Dana Lane
Division of Equal Employment Opportunity/Affirmative Action
Division of Appeals and Regulatory Affairs (w/ file)
Records Center