



STATE OF NEW JERSEY

In the Matter of B.G., Social Worker
Supervisor (PC4939C), Union County

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

CSC Docket No. 2024-988

List Bypass Appeal

ISSUED: July 1, 2026 (SLK)

B.G.¹ appeals the bypass of his name on the Social Worker Supervisor (PC4939C), Union County, eligible list.

By way of background, the appellant appeared as the fourth ranked eligible on the subject eligible list, which promulgated on May 19, 2022 and expired on May 18, 2024. In disposing of the May 23, 2022 certification (PL220784), the first two listed candidates were appointed, and the appellant as the fourth listed candidate was retained as interested. In disposing of the October 24, 2022 certification (PL221527), the first listed candidate was appointed, and the appellant as the second listed candidate was retained as interested. In disposing of the October 3, 2023 certification (PL231922), the appellant as the first listed candidate was bypassed and the second listed candidate was appointed, which led to the subject appeal.²

On appeal, the appellant presents that when he asked for feedback as to why he was bypassed, he learned that the first two appointed candidates were appointed without being interviewed. He states that he was originally the fourth ranked candidate on the subject eligible list. However, the appellant provides that he was

¹ Initials are being used to protect confidentiality as the appellant made a complaint that he was subject to discrimination.

² Agency records indicate that a fourth certification (PL240816) was issued with the appellant as the first ranked eligible. However, no appointments were made.

not interviewed until he was the second highest ranked remaining eligible on the subject eligible list.

Concerning the interview process, the appellant indicates that he never worked under one of the interviewers, who was from another department. The appellant provides that he was advised that this is common practice, but he claims that he is not aware that this has ever happened before. The appellant asserts that the promotion cannot be based on merit if one of the interviewers is unaware of the quality of his work. He states that he was advised that promotions are solely based on your Civil Service test score and interview performance and so he requests clarity on how promotions are made.

Additionally, the appellant presents that two days after his interview, while he was trying to obtain feedback regarding his interview from one of the interviewers on the panel, an Assistant Administrator who had input on the selection process, said something to him that was unfair concerning the interview process and discriminatory in nature, which led to him filing a complaint. The appellant claims that the Assistant Administrator advised him that he was unlikely to be appointed because the current Administrator had been the appointed candidate's supervisor and felt like she owed that candidate a promotion. Moreover, the appellant contends that the Assistant Administrator claimed that the current Administrator was racist and would choose the appointed candidate because she is African American. He claims that the Assistant Administrator said that racist people complain constantly about racism and when put into a position of power, continue to engage in racist behavior. Additionally, the appellant states that the Assistant Administrator let him know that he rated him the best during the interview with a score of 4.5, while he only scored the appointed candidate with a 4, and another interviewee a 3.³ The appellant asserts that Assistant Administrator told him that if the appellant did not get the promotion, he would "tell me what to say" during the next interview.

In response, the appointing authority, represented by Kathryn H. Hatfield, Esq., presents that the appellant started working for the appointing authority in 2003 and was promoted to Social Worker in 2007. The appointing authority provides that the appellant was not initially selected for the first position from the subject examination. After another position became available, the appellant was the first ranked eligible when he was interviewed. The appointing authority presents that the interview panel consisted of the Personnel Liaison for the Division of Social Services, two different Administrators, and an Assistant Administrator. It states that all the candidates were asked the same questions and were scored on their answers from a zero to five. The appointing authority indicates that after the interviews, the appellant was scored third out of the four candidates, which led to another candidate being selected.

³ The appeal says another "interviewer." However, based on the context, it is believed that the appellant meant another "interviewee," *i.e.* another candidate.

Concerning the interview process, the appointing authority highlights that Administrators from other units regularly sit on interview panels, especially when the job position is in that other unit as it was here. Therefore, it emphasizes that it was not unique to have another Administrator present for an interview for a Social Worker Supervisor position. The appointing authority asserts that the fact that the appellant did not have any work experience with this Administrator is irrelevant to the appellant's ability to perform during an interview.

Regarding the alleged discriminatory animus, the appointing authority argues that there is no supporting evidence for this claim. It highlights that the Assistant Administrator's beliefs are that person's belief and there is no proof that race played a role in the subject appointment. Rather, the appointing authority emphasizes that the appellant received similar scores from all interviewers, and the appointed candidate received the highest scores during the interview process. Therefore, it states that it was within its rights to appoint the candidate who scored the highest during the interview.

In reply, the appellant reiterates that the first two appointed candidates from the subject examination were appointed based on having the highest test scores and not based on interviews. He states that the Head of Personnel and the Director of Human Resources confirmed to him that the highest Civil Service test scores make you eligible to be interviewed but it is your interview score which grants the promotion. However, the appellant indicates that the Head of Personnel also indicated to him that the first two appointees had things in their personnel files that made it unnecessary for them to undergo interviews.

Concerning the alleged discrimination in the selection process, while the appointing authority states that there is no evidence of discrimination, the appellant states that the affirmative action officer determined that the allegations in his complaint were credible. The appellant highlights that the Assistant Administrator sat in on all interviews and was in the room during the discussions regarding each candidate. The appellant believes that because he was not interviewed for a position in 2022, Civil Service rules have been violated. Further, he contends that his interview scores were improperly influenced, which was a second violation of Civil Service rules.

In reply to an inquiry from this agency, the appointing authority presents that during an investigation of the appellant's complaint, the Assistant Administrator admitted that he stated to the appellant "let's see what way they go" and used his hand to indicate whether a decision to promote was going to be decided based on race. The Assistant Administrator stated that the reason he used this mannerism was because "this is how they talk." The Assistant Administrator also admitted that he had told the appellant what he had scored the appellant, thereby violating the confidentiality of the appointment process. Therefore, the appointing authority found

that the Assistant Administrator's gesture was discriminatory and violated the County's Policy Against Workplace Discrimination and Harassment.

CONCLUSION

N.J.S.A. 11A:4-8, *N.J.S.A.* 11A:5-6, and *N.J.A.C.* 4A:4-4.8(a)3i ("Rule of Three") allow an appointing authority to select any of the top three interested eligibles from an open competitive list, provided that disabled veterans and then veterans shall be appointed in their order of ranking.

Moreover, the "Rule of Three" allows an appointing authority to use discretion in making appointments. See *N.J.S.A.* 11A:4-8 and *N.J.A.C.* 4A:4-4.8(a)3ii. As long as that discretion is utilized properly, an appointing authority's decision will not be overturned. Compare, *In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984) (Hearing granted for individual who alleged that bypass was due to anti-union animus); *Kiss v. Department of Community Affairs*, 171 *N.J. Super.* 193 (App. Div. 1979) (Individual who alleged that bypass was due to sex discrimination afforded a hearing). Additionally, an appellant has the burden of proof in these matters. See *N.J.A.C.* 4A:2-1.4(c).

In this matter, the appellant claims that the appointing authority violated Civil Service rules in the selection process. However, under Civil Service law and rules, it is within an appointing authority's discretion to choose its selection method. See *In the Matter of Daniel Dunn* (CSC, decided August 15, 2012). Therefore, it was not a violation of Civil Service law and rules to first make appointments based on the highest Civil Service examination scores and then to subsequently make appointments based on which candidate had the highest interview score. Similarly, it is not a violation of Civil Service law and rules to have someone on the interview panel who was not from the department that the position is in and not directly familiar with the candidates' work. See *In the Matter of Jean Diguglielmo* (CSC, decided July 24, 2024).

Concerning the alleged discrimination in the interview scoring and selection process, a review of the panel's scoring indicates that the appellant scored third out of the four candidates.⁴ Moreover, the appointed candidate had the highest scores. While the Assistant Administrator scored the appellant highest during the interview, the other three panelists similarly scored the appellant the lowest. Additionally, while the Assistant Administrator scored the appointed candidate tied for second, the other three panelists scored the appointed candidate highest. Also, the record indicates that the investigation did not find that any of the panelists discriminated against the appellant in the interview and/or selection process. Rather, the investigation found that the Assistant Administrator's unsupported allegation where he stated his belief to the appellant that race may play a role in the other panelists'

⁴ One of the four interviewees was an eligible whose name was not on the subject certification.

scoring, as well as the Assistant Administrator's violation of the County's confidentiality policy, both violated the County's Policy Against Workplace Discrimination and Harassment. Finally, the appellant has not submitted any evidence, other than an unsupported belief, that race played a role in his non-appointment. Mere speculation, without evidence, is insufficient to find that a bypass of a candidate was improper. Therefore, as three separate panelists scored the appointed candidate's interview the highest, the subject appointment was based on legitimate business reasons in compliance with the Rule of Three.

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 1ST DAY OF JULY, 2026



Mary Cruz
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Shannon L. Dalton
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.G.
Laura Scutari
Kathryn H. Hatfield, Esq.
Division of Human Resource Information Services
Records Center