



STATE OF NEW JERSEY

In the Matter of Shawn Mount,
Department of Transportation

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

CSC Docket No. 2026-1457

Administrative Appeal

ISSUED: August 12, 2026 (HS)

Shawn Mount appeals the determination of his salary upon his appointment to the Senior Executive Service (SES) with the Department of Transportation (Department).

As background, the appellant was serving permanently in the title of Traffic Investigator at a salary of \$52,732.37. Effective November 30, 2024, the appellant received an appointment to the SES at a salary of \$100,000.00.¹ On January 3, 2025, the Department issued the appellant a letter confirming said salary.

In his appeal to the Civil Service Commission (Commission), filed December 15, 2025, the appellant insists his salary was erroneously set upon his appointment to the SES. Specifically, the appellant highlights that while his salary was set at \$100,000.00, the job posting listed a salary of \$134,233.75. He contends that Civil Service rules require adherence to the terms of the official job posting. Here, no revised posting or deviation, approved by this agency, was issued. The appellant further argues that he was pressured to accept the reduced salary and told it would be corrected later, but more than one year has passed without correction. He maintains that there is ongoing harm as he has performed full SES duties while being compensated below the posted salary. For relief, the appellant seeks correction of his

¹ Agency records indicate that the appellant's former Traffic Investigator position and his current SES position are assigned different position numbers.

salary to \$134,233.75, retroactive to November 30, 2024, and a review of hiring process compliance.

On January 7, 2026, the Division of Appeals and Regulatory Affairs (DARA) acknowledged receipt of the appeal and afforded the parties the opportunity to submit additional information.

In response, the Department, through the Assistant Commissioner, Administration, indicates that while the job posting reflected a maximum salary amount, it is well established departmental practice that initial appointments of internal candidates do not exceed a 100% increase over the employee's prior salary. The salary requested in this appeal would exceed that threshold and would represent a level of increase that has never been approved by the Department. Here, the appellant received an 89.6% salary increase with his SES appointment.

The Department maintains that the appellant was verbally offered the \$100,000 salary by operations personnel and he accepted the offer. The verbal offer was subsequently confirmed through official written correspondence. According to the Department, at no point during the appointment process did the appellant raise questions, concerns, or objections regarding the offered salary. In fact, in email correspondence between the appellant and his personnel coordinator where he was asking questions about title code and benefit time, he did not question his salary. For example, on December 13, 2024, the personnel coordinator advised the appellant that his "salary is correct in [the Personnel Management Information System]." The next morning, the appellant replied, "Good morning, Great Thank you!!!!" The appellant did not contact the Assistant Commissioner, Administration, to discuss salary concerns at any time before or after his appointment to the SES. Rather, the first indication that the appellant disputed his salary occurred more than one year later, when the Department received notice of the instant appeal.

The Department notes that the individual in a similar title and responsibility had a salary of \$101,500 for four years, until the Management Salary Program was approved for fiscal years 2019 and 2024. The Department notes that, within the Governor's Office approval process, it would be open to reviewing the appellant's duties and recommending a salary increase in the future. However, it maintains that the appellant knowingly accepted the salary offered; that the salary was consistent with established departmental practice; and that his appointment was properly executed and documented. Moreover, there was no misrepresentation; no violation of the Diane B. Allen Equal Pay Act; and no timely objection raised by the appellant during the appointment process.

In reply, the appellant presents several claims as described below.

1. The Department's "past practice" is not controlling and cannot override Civil Service law.

The appellant urges the Commission to reject the Department's reliance on an unwritten "practice" as a lawful basis to deny an appointed SES salary consistent with the announced posting and governing compensation rules.

2. The salary noted in the job posting was not clearly disclosed as a "maximum," and Human Resources communications created reasonable reliance.

The appellant is "aware of other candidates who contacted Human Resources and were advised that the salary posted was the salary to be given." Additionally, New Jersey has adopted pay transparency requirements for job postings and transfer opportunities requiring disclosure of the hourly wage/salary or a range. *See N.J.S.A. 34:6B-23b.*

3. The Department's description of "initial appointment rules" is incomplete and misapplied.

While the SES is "no-range," SES compensation is still controlled by lawful restrictions under *N.J.A.C. 4A:3-2.5*, not a departmental "never approved by this [d]epartment" practice. The Department's approach effectively creates an unpublished salary rule that disadvantages internal State employees and is not anchored in any authority promulgated by this agency.

4. The appellant was pressured to accept the salary and told "take it or decline," with a promise of later adjustment.

The appellant was verbally advised by his personnel coordinator that the salary was the salary and that he must accept it or decline so Human Resources could move forward with another candidate. This was not presented as a negotiable or reviewable decision at the time; it was presented as an ultimatum. In addition, the personnel coordinator communicated with his supervisor, and the supervisor confirmed to the appellant that the personnel coordinator stated Personnel/Human Resources would "look at changing" my salary after he had been in the position for a year. That representation is directly relevant to (a) why the issue did not immediately present as a "final" unchangeable determination and (b) why the appointing authority's claim that he waited a year to raise the issue is misleading.

5. The Department's claim that the appellant raised no concerns and only objected "more than one year later" is disputed.

The Department claims that "[a]t no point during the appointment process did [the appellant] raise questions, concerns or [objections] regarding the salary" and that the

“first indication” of dispute was more than a year later. The appellant disputes this characterization. The appellant could not speak directly with the Assistant Commissioner, Administration, because he was instructed to follow chain-of-command through his management. The appellant spoke to his management multiple times and sought engagement with Personnel/Human Resources. The fact that he complied with management direction and used the channels available to him should not be used against him. Additionally, Civil Service appeals rules recognize the operative trigger as when an appellant has notice or should reasonably have known of the decision, situation, or action being appealed. *N.J.A.C.* 4A:2-1.1(b). Given the communications described above, including the representation that salary could be reviewed after a year, the Department’s “one-year later” narrative does not accurately reflect the context or the reasonableness of the appellant’s actions.

6. Disparate treatment and discrimination concern: internal employees were uniquely disadvantaged.

The Department’s internal candidate “cap” functioned as a penalty tied to the appellant’s status as an existing Department/State employee. The appellant was not permitted to resign his first position and accept the SES role at the higher posted rate in the same manner as an external candidate could. By conditioning compensation on his internal status, and limiting his ability to transition as others could, the Department imposed a disadvantage on the appellant that did not apply equally to similarly situated non-internal candidates. At minimum, this raises a serious fairness and disparate treatment concern warranting Commission scrutiny, especially where the Department cannot point to an explicit Civil Service rule or Statewide restriction authorizing such disparate treatment in SES salary setting.

For relief, the appellant requests that the Commission:

- reject the Department’s reliance on an unwritten “departmental practice” as a lawful basis to limit SES salary;
- require the Department to produce all written policies/procedures it contends authorizes a “100% increase” limitation, including any Chairperson/Office of Management and Budget compensation restrictions applicable to SES appointments under *N.J.A.C.* 4A:3-2.5;
- require the Department to produce the original job posting as published, including any salary language and any statement that the figure was a “maximum;”
- accept and consider witness statements regarding Human Resources guidance to candidates that the posted salary was the salary to be paid;

- find that the Department’s “no timely objection” claim is contradicted by the record of chain-of-command restrictions, management discussions, and representations that salary would be revisited after one year; and
- grant appropriate relief, including adjustment of his appointed SES salary consistent with the posted salary parameters, or other lawful SES salary determination, and any appropriate retroactive remedies.

CONCLUSION

N.J.A.C. 4A:2-1.1(b) provides, in pertinent part, that an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed.

N.J.A.C. 4A:3-2.5 provides:

- (a) Positions allocated to the SES shall be designated as no-range, which means that no class code is designated for the position. However, salary payments for SES positions are subject to restrictions established by the Chairperson and the Director, Management and Budget, under their legal authority.
- (b) An incumbent with career status whose position is allocated to the SES, and who is appointed as an SES member, shall receive an initial salary that is no less than the salary at the time of his or her appointment as an SES member.
- (c) After initial appointment, salary advancement shall be based upon performance. There shall not be specific steps within each salary level, nor increments based upon length of service.

The appellant has the burden of proof in this matter. *See N.J.A.C.* 4A:2-1.4(c).

Initially, the instant appeal is untimely. In this regard, the appellant’s SES appointment was effective November 30, 2024, yet the instant appeal was not filed until more than one year later on December 15, 2025. *See N.J.A.C.* 4A:2-1.1(b). The appellant’s reliance on supposed communications that the Department would “look at changing” his salary after he had been in the position for a year to excuse the delayed filing is unpersuasive because the appellant’s claim here is that the Department erroneously set his salary *as of November 30, 2024*. Since that is the claim, the instant appeal should have been filed within 20 days of said date, or at least within 20 days of the confirming January 3, 2025 correspondence. Nevertheless,

the Commission offers the discussion in the remainder of this decision for informational purposes only.

The Commission observes that per *N.J.A.C.* 4A:3-2.5(a), positions allocated to the SES are designated no-range, which means that no class code is designated for the position, and that salary payments for SES positions are subject to restrictions established by the Chairperson and the Director, Management and Budget, under their legal authority. In other words, per this rule, the determination of the appellant's salary upon his SES appointment was at the Department's discretion, subject to the noted restrictions. Moreover, the use of the term *restrictions* in the rule is noteworthy in this case as such terminology cannot reasonably be interpreted to allow the Commission to decide that the appellant was entitled to receive his preferred salary increase of 154.6% instead of the 89.6% increase he received. Thus, in short, the rule does not vest the Commission, as a body, with the jurisdiction to review the propriety of the Department's practice that initial appointments of internal candidates not exceed a 100% increase over the employee's prior salary. It is also appropriate to note here that to the extent the Department made an administrative error in not clearly identifying the \$134,233.75 as a *maximum*, no vested or other rights are accorded by an administrative error. See, e.g., *Cipriano v. Department of Civil Service*, 151 N.J. Super. 86 (App. Div. 1977); *O'Malley v. Department of Energy*, 109 N.J. 309 (1987); *HIP of New Jersey v. New Jersey Department of Banking and Insurance*, 309 N.J. Super. 538 (App. Div. 1998). The Commission also acknowledges the appellant's reliance on *N.J.S.A.* 34:6B-23b, providing:

An employer shall disclose in each posting for new jobs and transfer opportunities that are advertised by the employer either externally or internally the hourly wage or salary, or a range of the hourly wage or salary, and a general description of benefits and other compensation programs for which the employee would be eligible. Nothing in this subsection shall be construed to prohibit an employer from increasing the wages, benefits, and compensation identified in the job opening posting at the time of making an offer for employment to an applicant.

However, the Commission is clearly not the enforcing agency for this statute as *N.J.S.A.* 34:6B-23c(1) provides:

Any employer who violates this act shall be subject to a civil penalty in an amount not to exceed \$300 for the first violation, and \$600 for each subsequent violation, collectible by the *Commissioner of Labor and Workforce Development* in a summary proceeding pursuant to the Penalty Enforcement Law of 1999 (emphasis added) (cleaned up).

As such, the appellant may wish to bring his concerns as to this statute before the Department of Labor and Workforce Development.

Turning to other issues, the appellant suggests that he accepted his SES appointment and salary under duress. In New Jersey, the law concerning the concept of duress has been extensively examined. As stated by Administrative Law Judge Robert S. Miller and affirmed by the former Merit System Board in *In the Matter of Dean Fuller* (MSB, decided May 27, 1997):

Duress is a force, threat of force, moral compulsion, or psychological pressure that causes the subject of such pressure to become overborne and deprived of the exercise of free will. *Rubenstein v. Rubenstein*, 20 N.J. 359, 366 (1956) . . . This test is subjective, and looks to the condition of the mind of the person subjected to coercive measures, not to whether the duress is of “such severity as to overcome the will of a person of ordinary firmness.” [*Shanley & Fisher, P.C. v. Sisselman*, 215 N.J. Super. 200, 212 (App. Div. 1987)] (citation omitted). Therefore, “the exigencies of the situation in which the alleged victim finds himself must be taken into account.” *Id.* at 213, *quoting Ross Systems v. Linden Dari-Delite, Inc.*, 35 N.J. 329, 336 (1961).

However, a party will not be relieved of contractual obligations “in all instances where the pressure used has had its designed effect, in all cases where he has been deprived of the exercise of his free will and constrained by the other to act contrary to his inclination and best interests.” *Wolf v. Marlton Corp.*, 57 N.J. Super. 278, 286 (App. Div. 1959). Rather, “the pressure must be wrongful, and not all pressure is wrongful.” *Rubenstein, supra* at 367. Further, “it is not enough that the person obtaining the benefit threatened intentionally to injure . . . provided his threatened action was legal . . .” *Wolf, supra* at 286, *quoting* 5 Williston, Contracts (rev. ed. 1937), § 1618, p. 4523.

It is a “familiar general rule . . . that a threat to do what one has a legal right to do does not constitute duress.” *Wolf, supra* at 287. “A ‘threat’ is a necessary element of duress, and an announced intention to exercise a legal right cannot constitute a threat.” *Garsham v. Universal Resources Holding, Inc.*, 641 F. Supp. 1359 (D.N.J. 1986). Thus, as long as the legal right is not exercised oppressively or as a means of extorting a settlement, the pressure generated by pursuit of that right cannot legally constitute duress. *See generally, Great Bay Hotel & Casino, Inc. v. Tose*, 1991 W.L. 639131 (D.N.J. 1991) (unrep.) and citations therein.

Here, the appellant claims he was told he must accept or decline so Human Resources could move forward with another candidate. He also claims he was told

the Department would “look at changing” his salary after he had been in the position for a year. This is, however, insufficient to constitute illegal duress as there is no evidence that any pressure the appellant may have felt was *wrongful* pressure. The appellant’s decision to accept was a personal choice and his belief that the Department would have moved on to another candidate, absent evidence of force or intimidation, does not constitute illegal duress. See *In the Matter of Sean Nally* (CSC, decided December 2, 2009); *In the Matter of Claudia Grant* (MSB, decided June 8, 2005).

Additionally, the appellant notes that an external candidate could have received a salary up to \$134,233.75, whereas the highest salary he, as an internal candidate, could have received was \$105,464.74, *i.e.*, 100% of his prior salary of \$52,732.37. While the appellant may believe this was unfair and call the situation discriminatory, such an allegation is not the type of discrimination that is cognizable before the Commission. In this regard, while Civil Service regulations encompass the State Policy Prohibiting Discrimination in the Workplace, said policy only prohibits discrimination on the basis of certain protected characteristics such as race or gender, *see N.J.A.C. 4A:7-3.1(a)*, and there is no claim of that nature in this matter. Further, while the appellant argues that the Department cannot point to an explicit Civil Service rule or Statewide restriction authorizing the higher potential salary for an external candidate, it must be noted that the burden of proof rests with the appellant in this appeal. Thus, if anything, it would be up to the appellant to identify what law, rule, or other authority within the Commission’s jurisdiction has been violated. However, he has not. As such, any complaint that external candidates were unfairly eligible for a higher salary is not redressable within this appeal.

Regarding the appellant’s request that the Commission accept and consider witness statements regarding Human Resources guidance to candidates that the posted salary was the salary to be paid, it must be noted again that the burden of proof rests with the appellant. If he believed that witness statements would be helpful to his case, he should have provided them with his initial appeal or after DARA’s invitation to the parties to supplement the record. Regardless, it does not appear that such witness statements would have materially changed the outcome because the Department, in response to this appeal through the Assistant Commissioner, has confirmed that the stated salary was only a maximum.

Finally, the appellant’s request for production of certain documents such as the policies or procedures related to the “100% increase” limitation and the original job posting is a records request that should be pursued through Open Public Records Act procedures with the Department.²

² It is noted that the Commission is not determining whether the documents referred to in the appellant’s request would be disclosable under OPRA. Nonetheless, the appellant’s request is a records request, which the Commission does not govern.

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 12TH DAY OF AUGUST, 2026



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