

*In the Matter of Annette C. Jones, Sheriff's Officer (S9999F),
County of Cumberland, and Police Officer (S9999F), City of Millville*
DOP Docket Nos. 2006-3992 and 2006-4060
(Merit System Board, decided November 15, 2006)

Annette C. Jones, represented by Erika A. Appenzeller, Esq., appeals the removal of her name from the eligible lists for Sheriff's Officer (S9999F), County of Cumberland, and Police Officer (S9999F), City of Millville, on the basis that she lacked the required education. The appellant's appeals have been consolidated due to similar issues involved.

By way of background, the appellant was admitted and took the law enforcement examination (S9999F), achieved a passing score, and was ranked on the Sheriff's Officer (S9999F), County of Cumberland, and Police Officer (S9999F), City of Millville, eligible lists, which are due to expire on December 23, 2006. The appellant's name was certified to the County of Cumberland on October 4, 2005 and to the City of Millville on February 28, 2006. In disposing of the certifications, the appointing authorities removed the appellant's name on the basis that she lacked a valid high school diploma or General Educational Development (GED) certification. The appointing authorities indicated that the appellant obtained her diploma through an on-line program issued by James Madison High School located in Norcross, Georgia. It is noted that the educational requirement listed on the Department of Personnel job specifications for Police Officer is "graduation from high school or vocational high school or possession of an approved high school equivalent certificate" and for Sheriff's Officer, it is a "high school diploma or equivalent."

On appeal to the Merit System Board (Board), the appellant maintains that she possesses a valid high school diploma. She states that she was issued a diploma with honors from the James Madison High School on July 7, 2003. She submits a copy of her diploma and a transcript of the courses she took. It is noted that the appellant's transcript indicates that she took eight courses at James Madison High School and an additional eight courses were transferred from a different institution. Moreover, the appellant argues that the positions in question do not require a high school diploma issued by the State of New Jersey. She states that James Madison High School is accredited by the Southern Association of Colleges and Schools (SACS) and the Distance Education and Training Council (DETC). Additionally, the appellant indicates that DETC is recognized by the United States Department of Education. The appellant presents a copy of the accreditation page of the James Madison High School website, which indicates that the school is also accredited by the Commission on International and Trans-Regional Accreditation (CITA). Therefore, the appellant requests that she be reinstated to the subject eligible lists.

In response, the County of Cumberland and the City of Millville state that each appointing authority conducted a background investigation of the appellant, which revealed that the appellant's diploma was not acceptable as a valid New Jersey Diploma or its equivalent. In this regard, they indicate that *N.J.A.C. 6:30-1.3* provides for two methods to qualify for a New Jersey issued high school diploma: taking the GED tests or other tests approved by the State Board of Education or passing the High School Proficiency Test. Additionally, Cumberland County points out that James Madison High School informed students that its diploma may not be honored by institutions or employers in the student's respective states. Furthermore, the appointing authorities submit a New Jersey Department of Education advisory, issued on October 11, 2005, warning of misleading diploma claims. The advisory states that "there are no on-line correspondence testing programs recognized by [the GED Testing Service] of the American Council on Education, or by the New Jersey Department of Education." Therefore, the appointing authorities maintain that the appellant lacks the required education and should be removed from the subject eligible lists.

It is noted that although the appointing authorities are responsible for ensuring that a Sheriff's Officer or Police Officer candidate meets the educational requirement, the Division of Selection Services advises that a diploma issued by James Madison High School would appear to be acceptable. It states that DETC is recognized by the Department of Personnel as a reliable accrediting agency and SACS appears to be an acceptable regional accrediting institution.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C. 4A:4-6.1(a)1*, provides that the name of an eligible may be removed from an eligible list for failure to meet the job requirements. *N.J.A.C. 4A:4-6.3(b)*, in conjunction with *N.J.A.C. 4A:4-4.7(d)*, provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

The record indicates that the appellant was removed from the Sheriff's Officer (S9999F), County of Cumberland, and Police Officer (S9999F), City of Millville, eligible lists on the basis that she lacked the required education. The County of Cumberland and the City of Millville argue that the appellant's diploma is not acceptable as it does not meet the criteria for a State-issued high school diploma and that the New Jersey Department of Education does not recognize on-line testing programs. Moreover, it must be noted that the appellant's diploma is not equivalent to GED testing. She took correspondence courses and was issued a high school diploma based on these courses. However, her diploma was issued by James Madison High School, which is accredited by SACS, DETC, and CITA. DETC is recognized by the United States Secretary of Education as a reliable

authority concerning the quality of education offered by postsecondary institutions in the United States which offer degree programs primarily by distance learning. SACS is also recognized as a reliable authority for degree-granting institutions located in Southern states, including Georgia. Furthermore, it is the Division of Selection Services' assessment that a diploma issued by James Madison High School would appear to be acceptable. Additionally, a Police Officer or Sheriff's Officer candidate is not required to have a State-issued high school diploma.

Therefore, the Board finds that the appellant's diploma meets the educational requirement for Police Officer and Sheriff's Officer. Accordingly, the appellant has met her burden of proof in this matter and the appointing authorities have failed to present a sufficient basis to remove the appellant's name from the eligible lists for Sheriff's Officer (S9999F), County of Cumberland, and Police Officer (S9999F), City of Millville.

ORDER

Therefore, it is ordered that these appeals be granted and the appellant's name be certified at the time of the next certification for Sheriff's Officer, County of Cumberland, and Police Officer, City of Millville, for prospective employment opportunities only. If the appellant's name is not certified prior to the expiration of the Sheriff's Officer (S9999F), County of Cumberland, and Police Officer (S9999F), City of Millville, eligible lists, on December 23, 2006, the eligible lists are to be revived in order for the appellant's name to be certified.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.