

B-57



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Kristina Quay,  
Vocational Rehabilitation Counselor  
2 (PS1417N), Department of Labor  
and Workforce Development

Request for Reconsideration

CSC Docket No. 2014-2723

ISSUED: SEP 18 2014

(RE)

Kristina Quay petitions the Civil Service Commission (Commission) for reconsideration of the decision rendered on March 26, 2014, which denied her appeal regarding her ineligibility for the promotional examination for Vocational Rehabilitation Counselor 2 (PS1417N), Department of Labor and Workforce Development. A copy of that decision entitled *In the Matter of Kristina Quay, Vocational Rehabilitation Counselor 2 (PS1417N), Department of Labor and Workforce Development* (Civil Service Commission, decided March 26, 2014), is attached hereto and incorporated herein.

By way of background, the eligibility requirements for the subject examination included graduation from an accredited college or university with a Master's degree in rehabilitation counseling, education, social work, counseling, special education, school guidance or psychology, and successful completion of one graduate course in theories and techniques of counseling AND two years of experience in vocational/rehabilitation guidance or counseling, or social or medical casework in a rehabilitation agency, facility or other social program designed to increase the employability of persons with disabilities. This examination was announced with a closing date of August 21, 2013, and Ms. Quay was found to be ineligible as she did not meet the education and experience requirements. The Commission explained that Ms. Quay had taken a class in Theories of Counseling, but not one in *Techniques*, and thus did not meet the educational requirements. Also, she received credit for the time spent in her position as Vocational Rehabilitation Counselor 1, but was found to be lacking five months of applicable

experience. The eligible list was promulgated on March 20, 2014 with 22 names. It has been certified three times and four appointments have been made.

In her request for reconsideration, the petitioner states that she received a pre-appointment evaluation for the title Vocational Rehabilitation Counselor 1 which indicated that she met the requirements of that title. She states that the requirements for that examination are the same as that for Vocational Rehabilitation Counselor 2, and requests to be admitted to the examination. In support of this appeal, a representative for the appointing authority reiterates the same argument, that the appellant met the educational requirement in a pre-appointment evaluation for the title Vocational Rehabilitation Counselor 1.

### CONCLUSION

*N.J.A.C.* 4A:2-1.6(b) provides that a petition for reconsideration must show the following:

1. New evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

Applying this standard to the instant matter, the appellant has not demonstrated that reconsideration should be granted. The appellant's education and experience were addressed in the decision below and she has not demonstrated that a clear material error has occurred or presented new information which would change the outcome of the Commission's decision.

The Commission explained that Ms. Quay had taken a class in Theories of Counseling, but not one in Techniques, and thus did not meet the educational requirements. As a result of this appeal, the back-up material from the pre-appointment evaluation was obtained from the Division of Selection Services. This information indicated that the appellant had completed the course Personality and Counseling Theories, and erroneously received credit for successful completion of one graduate course in theories and techniques of counseling. As such, that determination was in error, and no vested or other rights are accorded by an administrative error. See *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). Completion of the course Personality and Counseling Theories does not satisfy the educational requirement, as it does not include techniques of counseling.

In addition, the pre-evaluation was for the title Vocational Rehabilitation Counselor 1, which has no experience requirements. The appellant lacked five months of applicable experience as of the closing date for an examination for the title Vocational Rehabilitation Counselor 2, and the pre-evaluation is not evidence that she met the experience requirement. The appellant may have performed out-of-title work in a prior held title, but the instant examination is competitive, even after three certifications. Good cause is not established to accept out-of-title work or work accrued after the closing date in a competitive situation.

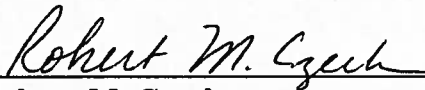
The petitioner has failed to present a basis for reconsideration of this matter since she failed to establish that a clear material error occurred in the original determination or that new evidence presented would change the outcome of the appeal.

**ORDER**

Therefore, it is ordered that this request 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  
THE 17<sup>th</sup> DAY OF SEPTEMBER, 2014



Robert M. Czech  
Chairperson  
Civil Service Commission

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and  
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Attachment

c: Kristina Quay  
Thomas Healy  
Dan Hill  
Joseph Gambino



**STATE OF NEW JERSEY**

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

In the Matter of Kristina Quay,  
Vocational Rehabilitation Counselor  
2 (PS1417N), Department of Labor  
and Workforce Development

Examination Appeal

CSC Docket No. 2014-1612

**ISSUED: MAR 28 2014 (RE)**

Kristina Quay appeals the determination of the Division of Selection Services which found that she did not meet the education and experience requirements for the promotional examination for Vocational Rehabilitation Counselor 2 (PS1417N), Department of Labor and Workforce Development.

The subject examination announcement was issued with a closing date of August 21, 2013. The examination was open to employees in the non-competitive division who had an aggregate of one year of continuous permanent service as of the closing date and who were serving in the title Vocational Rehabilitation Counselor 1, Vocational Rehabilitation Counselor Bilingual in Spanish and English, or Vocational Rehabilitation Counselor Deaf Language Specialist, and who met the open competitive requirements. These requirements included graduation from an accredited college or university with a Master's degree in rehabilitation counseling, education, social work, counseling, special education, school guidance or psychology, and successful completion of one graduate course in theories and techniques of counseling AND two years of experience in vocational/rehabilitation guidance or counseling, or social or medical casework in a rehabilitation agency, facility or other social program designed to increase the employability of persons with disabilities. A current and valid certification as a Certified Rehabilitation Counselor issued by the Commission on Rehabilitation Counselor Certification could be substituted for the Master's degree. The appellant was found to be below the minimum education and experience requirements. The examination was administered to 24 eligible candidates in February 2014, and the results are not yet available.

Ms. Quay indicated that she possessed a Master's degree in Education which was an acceptable area. As to the specific course requirement in Theories and Techniques of Counseling, the appellant indicated that she had taken a course entitled Personality and Counseling Theories. This was acceptable for the theories portion, but did not include techniques of counseling. As to her experience, the appellant listed one position on her application, that of Counselor 1 from November 2011 to the August 2013 closing date. She also supplied a resume with five additional teaching positions in early childhood, a position as a Site Director for an extended day program, and the position as a Student Teaching Assistant. Official records indicate that the appellant was a Rehabilitation Aide from November 2011 to February 2012, and a Vocational Rehabilitation Counselor 1 from February 2012 to August 2013. She was credited with one year, seven months while in the title of Vocational Rehabilitation Counselor 1. Thus, she was found to be lacking five months of applicable experience and a class in Counseling Techniques.

On appeal, the appellant states that she had already possessed a Master's degree when she was initially hired in November 2011, but she was placed in the Rehabilitation Aide title until she completed the class in counseling theory. She argues that, while in her teaching positions, she assisted students with vocational and educational goals, including individuals with disabilities.

*N.J.A.C. 4A:4-2.6(a)* provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. *N.J.A.C. 4A:4-2.6(c)* provides that except when permitted for good cause, applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy eligibility requirements.

## CONCLUSION

As to education, the specific course requirement was that of Theories and Techniques of Counseling. The appellant has taken a class in Theories of Counseling, but not one in *techniques*. As a result, she does not meet the educational requirements. As to experience, the appellant received credit for the time spent in her position as Vocational Rehabilitation Counselor 1, and was found to be lacking five months of applicable experience.

When an applicant indicates extensive experience in titles established under the State Classification Plan for an examination, it is appropriate to utilize the job specifications to determine the primary focus of the duties of incumbents serving in career service titles. In the eligibility screening process, reliance on the job specifications to determine the primary focus of duties for incumbents of a particular title or title series provides a standardized basis on which Selection Services can compare what an applicant indicates on his or her application to what incumbents in a particular title series generally perform. *See In the Matter of*

*William Moore* (MSB, decided May 10, 2006). In order to maintain the integrity of the State Classification Plan, DSS cannot simply accept *carte blanche* how an applicant describes his or her experience when such a barometer exists. In this regard, it is noted that *N.J.A.C. 4A:3-3.4* contemplates that employees are appointed to a title appropriate to the duties to be performed in the title and will not be assigned duties other than those properly pertaining to the assigned title which the employee holds.

The job specification for Rehabilitation Aide indicates that the primary focus of this position is to perform supportive and caseload para-professional duties for Rehabilitation Counselors. On her application, the appellant described the same duties for both Rehabilitation Aide and the Vocational Rehabilitation Counselor 1. Although her description of out-of-title duties while serving in the Rehabilitation Aide title is logical, out-of-title duties may not be used to satisfy eligibility requirements for promotional examinations. Ordinarily, the Commission looks to whether or not "good cause" has been established in determining whether to grant or deny appeals involving out-of-title work. Generally, the Commission finds good cause where the record evidences that the examination situation is not competitive, no third parties are adversely impacted, and the appointing authority wishes to effect permanent appointments and verifies that the appellant has performed the relevant duties which otherwise satisfy the eligibility requirements. *See In the Matter of John Cipriano, et al.* (MSB, decided April 21, 2004). In this case, there are 24 eligible candidates. Thus, good cause has not been presented as a basis for accepting out-of-title experience. The appellant's experience in teaching positions, as a Site Director, and as a Student Teaching Assistant is not qualifying. In sum, the appellant lacks a course in Counseling Techniques and five months of qualifying experience.

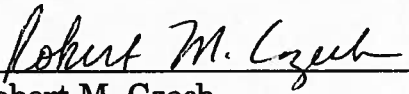
The appellant was denied admittance to the subject examination since she lacked the minimum requirements in education and experience. An independent review of all material presented indicates that the decision of the Division of Selection Services, that the appellant did not meet the announced requirements for eligibility by the closing date, is amply supported by the record. The appellant provides no basis to disturb this decision. Thus, the appellant has failed to support her burden of proof in this matter.

#### 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 26<sup>th</sup> DAY OF MARCH, 2014

  
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Robert M. Czech  
Chairperson  
Civil Service Commission

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and  
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c: Kristina Quay  
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