

CSC
B-18



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Karen Caine,
Investigator, Communicable Diseases
(C1034P), Ocean County

List Removal

CSC Docket No. 2014-2363

ISSUED: **MAR 06 2015** (HS)

Karen Caine appeals the attached decision of the Division of Classification and Personnel Management (CPM), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Investigator, Communicable Diseases (C1034P), Ocean County eligible list on the basis of her failure to respond to the notice of certification.

The appellant took the open competitive examination for Investigator, Communicable Diseases (C1034P), achieved a passing score and was ranked as a non-veteran on the subsequent eligible list. The eligible list promulgated April 25, 2013 and expires April 24, 2016. The appellant's name was certified to the Ocean County Board of Health on April 29, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that she failed to respond to the notice of certification.¹ Notices of certification instruct individuals to write to the appointing authority within five business days of the date of the notice to let it know whether or not the individual was interested in the position.

On appeal, the appellant requests restoration of her name to the subject eligible list. The appellant asserts that she followed the verbal instructions of the appointing authority that a written response to the notice of certification was not

¹ Agency records indicate that the certification was disposed of effective August 30, 2013. In disposing of the certification, the appointing authority appointed a veteran who was tied with two other veterans as the first ranked eligible.

necessary and therefore she did respond to the appointing authority. In this regard, she notes that during an interview on either April 12, 2013 or April 19, 2013, she informed the interviewer that her name appeared on the subject eligible list. However, the appellant maintains that the interviewer told her a written response was not necessary. The appellant subsequently began work as an Investigator, Communicable Diseases, effective October 10, 2013.²

In response, the appointing authority states that no individual who handles Civil Service personnel matters, including appointments, has any record that the appellant was advised that a written response to the notice of certification was not necessary. The appointing authority notes that the appellant's employment was terminated, effective February 5, 2015. However, the appointing authority also states that it has no objection if the appellant's name were to appear on future certifications of the eligible list.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *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 the appellant from an eligible list was in error.

Initially, it should be noted that the appellant's name could properly be removed from the subject eligible list due to her failure to respond to the certification notice. In this regard, notices of certification clearly instruct candidates to provide a written response to the appointing authority; the appointing authority disputes the appellant's claim that she was instructed by a representative of the appointing authority that a written response was not necessary; and the appellant provides no substantive evidence to support her assertion. However, since the appointing authority has indicated that it has no objection if the appellant's name were to appear on future certifications, it is appropriate to restore her name to the subject eligible list.

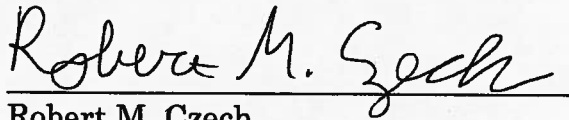
ORDER

Therefore, it is ordered that this appeal be granted and Karen Caine's name be restored to the eligible list for Investigator, Communicable Diseases (C1034P), Ocean County for prospective employment opportunities only.

² Agency records indicate that the appellant's provisional appointment, pending open competitive examination procedures, to the subject title was rejected as a complete eligible list existed for the title.

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 4TH DAY OF MARCH, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
Civil Service Commission
P.O. Box 312
Trenton, NJ 08625-0312

Attachment

- c. Karen Caine
Victoria Miragliotta
Kenneth Connolly



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

DATE: March 12, 2014

Karen Caine

Title: Investigator, Communicable Diseases
Symbol: C1034P
Jurisdiction: Ocean County Board of
Health
Certification Number: OL130595
Certification Date: 04/29/13

Initial Determination: Removal – Non-response to certification

This is in response to your correspondence contesting the removal of your name from the above-referenced eligible list.

The Appointing Authority requested removal of your name in accordance with *N.J.A.C. 4A:4-4.7(a)6*, which permits the removal of an eligible candidate's name from the eligible list for non-compliance with the instructions listed on the Notice of Certification.

After a thorough review of our records and all the relevant material submitted, we find that there is **not** a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name is sustained and your appeal is denied.

In accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

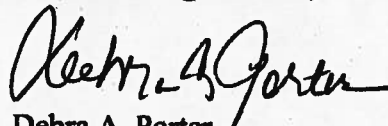
Pursuant to P.L. 2010 c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC.

Karen Caine
March 12, 2014
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Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Acting Director,



Debra A. Porter
Local Placement Services

c: Victoria Miragliotta

