



STATE OF NEW JERSEY

In the Matter of Sasha Kimiatek,
Graphic Artist 1 (M1019E); Jersey
City

CSC Docket No. 2024-2218

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

Eligibility Appeal

ISSUED: December 18, 2024 **(KMG)**

Sasha Kimiatek appeals the determination of the Division of Agency Services (Agency Services) which found that she did not possess requirements for the open competitive examination for Graphic Artist 1 (M1019E); Jersey City.

By way of background, the subject examination was announced with a closing date of October 23, 2023, and was open to residents of Jersey City who graduated from an accredited college or university with an Associate's degree in graphic design or multimedia and possessed one year of experience in work involving graphic arts. Upon review of the appellant's application, Agency Services properly found that she did not possess the requisite degree, and thus found her ineligible. Only one applicant was found eligible for the subject examination. The resulting eligible list promulgated on December 28, 2023 and expires on December 27, 2026

In her April 29, 2024, appeal to the Civil Service Commission (Commission), the appellant argues that she has approximately 10 years of relevant work experience, including her provisional service in the subject title.¹ She also asserts that her Bachelor's degree in Theater should be sufficient as it encompasses the design of graphics, layouts, and advertisements. In support, the appellant submits her transcript, with indicates that she earned a Bachelor's degree in Theater with a

¹ Agency records indicate that the appellant received a provisional appointment, pending open competitive examination procedures, to the subject title effective, January 31, 2022.

minor in Spanish. The transcript also indicates that five and one-half credits of that total was for Stagecraft: Aesthetics and Lighting, Stagecraft: Scenic Techniques, Creativity and Collaboration, Painting 1, Scene Design I and II, and Advanced Topics in Design Scene Painting. Additionally, the appellant notes that she has taken continuing education courses in formula drawing and inking. However, she has not provided any documentation, certifications or transcripts for those classes.

With regard to the lateness of her appeal, she maintains that the Business Administrator had told her that he would submit an appeal on her behalf. In support, she submits several emails, including a December 22, 2023 email she sent to the Mayor, in which she forwarded an email from this agency, which explained that she was found ineligible, due to not possessing the required degree, the appellant also claimed that she was told she “could challenge the decision by filing an appeal through the City.” In a December 22, 2023, the Business Administrator indicated that he would “use this information to formally appeal” to this agency.

The appellant also submits a copy of her December 20, 2023 Notification of Ineligibility, which states:

For Appeals: If you wish to appeal the decision listed on this notice, you must submit a written appeal to the Civil Service Commission, Written Record Appeals Unit, Division of Appeals and Regulatory Affairs, PO Box 312, Trenton, NJ, 08625-0312, postmarked or delivered within 20 days of the date of this notice. Your appeal must include specific details that explain why you should be eligible and all proofs, arguments, and issues which you plan to use to substantiate your appeal. We regret that we cannot accept telephone, in-person or late appeals. **ONLY TIMELY WRITTEN APPEALS WILL BE ACCEPTED.** Effective July 1, 2010 there is a \$20 fee for appeals. Please include a check or money order along with your appeal, payable to NJCSC. Persons receiving public assistance or those qualifying for NJ Civil Service Veterans Preference are exempt from this fee. (emphasis in original)

CONCLUSION

N.J.A.C. 4A:4-6.6(a)1 provides that an appeal must be filed within 20 days of notice of the action, decision or situation being appealed. In this matter, the appellant appeals the December 20, 2023, notification of her ineligibility for the subject examination. However, she did not file the instant appeal until April 29, 2024. Although the appellant argues that she was told by the Business Administrator that he would appeal the determination, she provides no explanation as to why she did not follow the clear instructions on the Notification of Ineligibility she received. In this regard, that notice specifically states the process to file an appeal, the appeal fee

that was required, and the time-frame in which to do so. Moreover, the notice specifically provides notice to the candidates that untimely appeals will not be accepted. The purpose of time limitations is not to eliminate or curtail the rights of appellants, but to establish a threshold of finality. In the instant case, the delay in filing the appeal unreasonably exceeds that threshold of finality. Thus, it is clear that the appellant's instant appeal is untimely.

Nor is there any basis in this particular case to extend or to relax the time for appeal. See *N.J.A.C. 4A:1-1.2(c)* (the Commission has the discretionary authority to relax rules for good cause). In this regard, it is appropriate to consider whether the delay in asserting his right to appeal was reasonable and excusable. *Appeal of Syby*, 66 *N.J. Super.* 460, 464 (App. Div. 1961) (construing "good cause" in appellate court rules governing the time for appeal); *Atlantic City v. Civil Service Com'n*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Bd. of Educ.*, 90 *N.J.* 145 (1982). In this case, the appellant merely claims that she was told by the Business Administrator that he would appeal. However, other than that one email, she provides no further arguments or proof that she followed up, or even contacted this agency to see if the appeal had been received. Accordingly, the appellant's appeal is untimely, and she has failed to show good cause to justify relaxing the requirements of *N.J.A.C. 4A:4-6.6(a)1*.

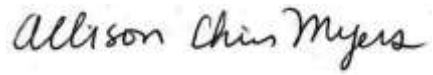
Even though the appellant's instant appeal is untimely, the Commission will address the appellant's arguments. *N.J.A.C. 4A:4-2.3(a)* requires applicants to possess all the requirements specified in an announcement for an open competitive examination by the closing date. *N.J.A.C. 4A:4-6.3(b)* provides that the appellant has the burden of proof in examination appeals. Upon Agency Service's review of the appellant's application, it correctly determined that the appellant's Bachelor's degree in Theatre does not meet the requirements for the announcement as it is not in the required field. Moreover, although the appellant claims that she took classes that encompassed the design of graphics, layouts, and advertisements, a review of her transcript does not reveal any courses in those areas.

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 18TH DAY OF DECEMBER, 2024



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas Angiulo
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Sasha Kimiatek
John Metro
Division of Agency Services
Records Center