



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of A.C., Department of
Human Services

CSC Docket No. 2024-1893

Hearing Granted

ISSUED: March 19, 2025 (EG)

A.C., a Habilitation Plan Coordinator with the Hunterdon Developmental Center (HDC), Department of Human Services (DHS), appeals the determination of the Assistant Commissioner, Office of Legal and Regulatory Affairs DHS, stating that the appellant failed to present sufficient evidence to support findings that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant, a female, filed a complaint with the DHS Office of Equal Employment Opportunity (EEO) on February 23, 2024, alleging A.B., a Residential Services Worker, sexually harassed her and discriminated against her based on marital/civil union status. Specifically, she alleged that A.B. gave her his phone number and hugged her without her consent.

In response to the appellant's complaints, the EEO conducted an investigation and found that the appellant's allegations could not be substantiated. The investigation included interviews and the collection and review of pertinent documents. It found no witnesses to the alleged incidents. Additionally, A.B. admitted that he gave the appellant his phone number. He also acknowledged that the appellant showed him photos on her wall of her family and friends. Further, while A.B. conceded he asked the appellant for a hug, he denied hugging her without her consent. He asserted that when he asked the appellant for a hug, she said "sure." He then added that when he hugged the appellant, he touched her shoulder. Based

on the foregoing, the investigation could not substantiate the claims against A.B. However, A.B. was directed to limit future contact with the appellant to work-related matters only.

On appeal, the appellant argues that that she did not give any permission or consent for A.B. to hug her. She reiterated that A.B. gave her his phone number and that he hugged her before she could stop him. Additionally, the appellant asserts that she already had limited contact with A.B. before the incident as they only spoke in greetings. She explained that he cleaned the cottage as she walked to the office and ran meetings in the building where he was the housekeeper. They had no direct form of work contact. Further, she argues that limiting his contact with her is an insufficient outcome as he already had limited contact before the incident. The appellant asserts that she and potentially other victims are being put in an unsafe work environment due to his presence. She contends that the appointing authority cannot ensure that she and A.B. will not cross paths at some point at HDC. She states that no worker should feel unsafe at work and should not have to face their perpetrator at work.

In response, the EEO asserts that the investigation found that the appellant did not tell A.B. to leave her office, did not tell him she was offended by him giving her his phone number, and did not tell him he could not hug her. It reiterates that A.B. asserted that the appellant responded “sure” when he asked if he could hug her. Additionally, A.B. indicated that the appellant did not stand up all the way and that it was not like a “real hug” as he put his hands around her shoulders. The EEO argues that the appellant has failed to meet her burden on appeal by not submitting any evidence that changes the relevant facts of the matter. Additionally, it asserts that A.B. was placed off-duty when the investigation was filed. However, after the investigation could not substantiate the allegations, he was permitted to return to work. A.B. was directed to limit future contact with A.C. to work-related matters only and informed that any future non-work-related contact could result in disciplinary action.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides that under the State Policy, discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. *N.J.A.C.* 4A:7-3.1(c) provides that it is a violation of this policy to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. Further, *N.J.A.C.* 4A:7.3-2(m)4 states that the appellant shall have the burden of proof in all discrimination appeals brought before the Civil Service Commission (Commission).

N.J.A.C. 4A:7-3.2(m) provides that the Commission shall decide a discrimination appeal on a review of the written record or such other proceeding as it deems appropriate. *N.J.A.C.* 4A:2-1.1(d) provides that an appeal will be reviewed on the written record, except where a hearing is required by Civil Service law or rules or where the Commission finds that a material and controlling dispute of fact exists that can only be resolved by a hearing. In the instant matter, a material dispute of fact exists which warrants granting a hearing at the Office of Administrative Law (OAL).

In this regard, EEO found that the appellant's complaints were unsubstantiated, based on the findings of its investigation. However, the Commission notes that there is a substantial dispute of material fact concerning the hug. Both the appellant and A.B. indicate that A.B. hugged the appellant. A.B. asserted that the appellant responded "sure" when he asked if he could hug her. He also indicated that the appellant did not stand up all the way at the time of the hug and that it was not like a "real hug," as he put his hands around her shoulders. In contrast, the appellant stated that she did not give A.B. permission or consent to hug her. Whether the hug was consented to is clearly pertinent to whether that action was a violation of the State Policy.

Based on these conflicting accounts, and the fact that the record is devoid of substantive evidence as to why the EEO apparently credited A.B.'s version of the incident over the appellant's, the Commission cannot make a determination on the written record. Under these circumstances, where a dispute of fact which cannot be resolved on the written record exists, the matter should be referred to the Office of Administrative Law for a hearing to determine whether the appellant's allegations of discrimination in violation of the State Policy are substantiated.

ORDER

Therefore, it is ordered that this matter be referred to the Office of Administrative Law for a hearing as a contested case.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 19TH DAY OF MARCH, 2025



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