



**STATE OF NEW JERSEY**

In the Matter of M.G., Department of  
Banking and Insurance

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

CSC Docket Nos. 2025-957 and 2025-  
958

Discrimination Appeal

**ISSUED: March 19, 2025 (SLK)**

M.G., an Administrative Assistant 2 with the Department of Banking and Insurance (DOBI), appeals the determinations of an Assistant Insurance Commissioner which found that the appellant was not subjected to violations under the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy). These appeals have been consolidated due to common issues presented.

By way of background, M.G. alleged that she was discriminated against based on disability because she was not assigned a handicapped parking space that was close to building where the DOBI offices were located. The investigation revealed that she was initially provided the accommodation of parking in the Perry Street Lot, which has handicapped parking where she could take a free shuttle bus to the DOBI building. Further, when DOBI was able to acquire new parking spots at State Street Square, M.G. was provided parking at that location as an accommodation. Therefore, the investigation was unable to substantiate that she was subjected to disability discrimination regarding her parking accommodation request.<sup>1</sup>

Additionally, M.G. alleged that D.I., a Regulatory Officer 4, discriminated against her based on disability because she heard her say that she was not used to dealing with people with issues like M.G.'s and M.G. believed that D.I was talking

<sup>1</sup> The first determination also indicates that M.G. alleged that she was retaliated against by an officer by filing a complaint against her, which was not substantiated. As M.G. did not mention this allegation in her appeal, it will not be addressed.

about M.G.'s disabilities. Further, M.G. alleged that D.I. discriminated against her based on her disability because she "nitpicked" everything that she does. The investigation did not substantiate that D.I. was referring to M.G.'s disability when she made the comment. Also, the investigation did not find that D.I. treated M.G. differently than how she treats other employees. Therefore, the investigation did not substantiate these allegations.

On appeal, M.G. states that prior to accepting her current role with DOBI, parking was to be included at no additional expenses. She indicates that Perry Street was 12 blocks away and accessible by public transportation. However, she questions why a handicapped space could not be provided within one block of the building. M.G. claims that the denial of a closer space was a violation of the American with Disabilities Act (ADA). Further, M.G. provides that her disability is permanent, and she provides documentation to the Motor Vehicle Commission (MVC) every three years regarding her need to have handicapped parking. Therefore, she questions why she needs to provide proof of her handicap every year to DOBI to receive her parking accommodation. She contends that DOBI is being unreasonable in its request for on-going documentation of her handicap in violation of the ADA.

Concerning D.I., M.G. explains that there was an incident where she had forgotten about a training session, and she apologized to D.I. However, M.G. states that D.I. did not want to hear M.G.'s explanation, and she advised that she needed to seek the training elsewhere. Thereafter, M.G. claims that D.I. retaliated against by going to the Office of Employer Relations (OER) the next day, instead of going to her supervisor, regarding an issue unrelated to the training incident. Specifically, D.I. complained to OER about M.G. copying her union on emails. Additionally, on that same day, there was a unit meeting via Microsoft Teams, where D.I. did not have her microphone muted, where she was on the phone negatively talking about M.G.'s copying the union on emails. Moreover, even though M.G. said "hello" a few times, D.I. continued with her conversation, which shocked and humiliated M.G. as other members of the unit who were on the call could hear D.I.'s negative comments about her.

Regarding the phone call with OER, M.G. presents that D.I. stated that previously, administrative personnel reported directly to her concerning work that she was responsible for overseeing. However, D.I. expressed that "it is very frustrating trying to direct particularly employees with issues like [M.G.] who she has no direct supervisory authority over them so *my frustration is dealing with people with issues like [M.G.]*." Additionally, D.I. expressed dissatisfaction how M.G.'s supervisor handled things with M.G. Moreover, D.I. discussed the training session that M.G. missed and that M.G. needed to be trained to assist D.I. with presenting a public hearing on Teams as D.I. did not want to be embarrassed, which is why she asked that M.G. be trained. However, D.I. provided that although M.G. claimed she forgot about the training, D.I. stated to OER "I think that is a lie." Also, D.I.

continued to speak negatively about her to OER, and stated that if M.G. had reported directly to her, she would have gone to OER because she did not believe that M.G. forgot about the meeting stating “this is my frustration with her.” She highlights that D.I. is aware of M.G.’s ADA accommodations as she was included on all correspondence related to it, and they spoke a few times about her medical conditions.

Additionally, M.G. presents another issue where she claims that D.I. harassed her and made her uncomfortable at work. M.G. indicates that in response to an invitation to attend a holiday party at work, she responded to a Regulatory Officer and her supervisor, where she indicated that she did not want to attend. However, M.G. asserts that D.I. interjected and disregarded her response. Further, M.G. states that after getting upset that D.I. commented on her response, she emailed her supervisor advising that she would not be attending. However, she provides that D.I. continued to push the issue and stated that if she changed her mind, she could attend the party. M.G. presents that ever since D.I. referred to her as a “person with issues,” she just goes to work and then goes home. M.G. states no one knows how much she endures daily with her health conditions and having to deal with being treated differently when she is trying to be “normal” and be treated equally.

M.G. contends that D.I.’s treatment is undermining the State’s efforts to be a model employer for persons with disabilities. She indicates that although D.I. is not her supervisor, she routinely changes her work duties, assignments, and expectations; ostracizes her to the point where others do not want to associate with her out of fear of being retaliated against by D.I.; routinely has made embarrassing statements within earshot of her and other staff in an open setting regarding her benefits time when she uses FMLA, vacation, or sick leave; and requires her to ensure coverage for when she is not available or on sick or vacation leave.

In response to M.G.’s request for a parking accommodation, DOBI submits that M.G. has been approved to park in the State Street Square Parking garage until February 9, 2026. DOBI notes that the accommodation is not permanent and can be reassessed at any time. Further, DOBI indicates that it may request that M.G. provide updated information or documentation in support of her need for accommodations, and upon a request for an extension of her accommodations, it may request supporting documentation and evaluate that documentation.

In regard to M.G.’s allegations that D.I. made comments about her disabilities, DOBI, represented by Elizabeth Y. Moon, Esq.<sup>2</sup>, indicates that D.I. denied that her comments referred to M.G.’s disabilities, and she recounted how M.G. failed to show up for training that she scheduled for her. Additionally, DOBI presents that D.I. claimed that she was frustrated with how the situation had been handled and stated that she was not accustomed to assigning and overseeing the work of an employee

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<sup>2</sup> Ms. Moon’s submission only addressed the allegations against D.I., and DOBI directly submitted its response concerning the parking allegations.

that she does not supervise, like M.G. Also, DOBI provides that D.I. mentioned that M.G. had been copying her union representative on work related emails involving matters that were not related to discipline. Therefore, the OER was providing language that D.I. could use to respond to M.G. DOBI states that although the OER corroborated that D.I. made the comments that were similar as to what M.G. alleged, the OER also corroborated D.I.'s version of the events that the comments were about D.I.'s perception that M.G. was a problem employee and not referencing her disability. Further, DOBI notes that while M.G.'s stated that D.I. "nitpicks" everything she does, during the investigation, she was unable to provide specific examples as to how D.I. treated her differently than others with the unit. Also, D.I. explained that although she is not M.G.'s direct supervisor, she is responsible for M.G.'s work performance and correcting any of her work that is incorrect or incomplete.

Regarding M.G.'s claim that D.I. treats her differently, and excludes and ostracizes her, it provides that the only example that M.G. provided was the holiday party incident. However, it contends that the incident demonstrates that D.I. was trying to include M.G. in the party and not exclude her. Moreover, while D.I. may have spoken negatively about M.G., she has provided no evidence that those comments were based on M.G.'s membership in a protected class. Additionally, DOBI notes that M.G. did not bring up the holiday incident during the complaint, and therefore it should not be considered. Regardless, it reiterates that incident contradicts M.G.'s claim of discriminatory or exclusionary actions against her. Referring to D.I. making the "people with issues" comments, DOBI emphasizes that the OER corroborated that those comments referred to a problem employee based on M.G.'s failure to attend training and her copying the union on emails. Moreover, it highlights that M.G. acknowledged that she forgot about the training and M.G. was not happy about it. Therefore, the record indicates that D.I.'s actions were not based on M.G.'s disability but based on her missed training and the emails to the union. Finally, referencing M.G. comments about D.I. adding and changing her job duties, assignments and responsibilities, DOBI notes that this allegation was not part of M.G.'s complaint and, therefore, should not be considered. However, even if this allegation is considered, it provides based on M.G.'s documentation, her duties have not increased since she started with DOBI and the increase in the duties for her title had increased before she started employment with DOBI.

In reply to the parking issue, M.G. acknowledges that her parking accommodation has been extended until February 9, 2026, based on her medical documentation submitted in February 2024. However, she notes that the accommodation indicates that she needs to provide medical documentation prior to February 9, 2026, and her accommodation can be revoked at any time. M.G. reiterates that her medical condition is permanent unless there is a "miracle cure." Therefore, she believes that she should not have to continually provide medical documentation. She states that she should be treated and given the same rights as

“normal” employees and be allowed to have accommodations which include parking and back door access while employed at DOBI. M.G. also submits various emails and documents concerning the history of her attempt to gain a parking accommodation.

In reply to the allegations against D.I., M.G. submits the unofficial transcript regarding the Teams meeting to show D.I.’s frustrations with “people like me” and her retaliation against her. She also submits documentation to show that D.I. added to her job responsibilities. Further, M.G. provides documentation to show that other employees have accused D.I. of discriminating against them.

## CONCLUSION

*N.J.A.C.* 4A:7-3.1(a) provides, in pertinent part, the State is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon disability will not be tolerated. *N.J.A.C.* 4A:7-3.2(n)1 provides that the burden of proof shall be on the appellant.

Under the ADA, the term “reasonable accommodation” means: (1) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; (2) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or (3) modifications or adjustments that enable a covered entity’s employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. A reasonable accommodation may include, but is not limited to: (1) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and (2) job restructuring: part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training, materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities. *See* 29 *C.F.R.* § 1630.2(o) (1999).

Further, the ADA requires that, where an individual’s functional limitation impedes job performance, an employer must take steps to reasonably accommodate, and thus help overcome the particular impediment, unless to do so would impose undue hardship on the employer. *See* 29 *C.F.R.* § 1630.2(p). Such accommodations usually take the form of adjustments to the way a job customarily is performed, or to the work environment itself. This process of identifying whether, and to what extent, a reasonable accommodation is required should be flexible and involve both the

employer and the individual with the disability. No specific form of accommodation is guaranteed for all individuals with a particular disability. Rather, an accommodation must be tailored to match the needs of the disabled individual with the needs of the job's essential function. The ADA does not provide the "correct" answer for each employment decision concerning an individual with a disability. Instead, the ADA simply establishes parameters to guide employers in how to consider, and to take into account, the disabling condition involved. *See* 29 *C.F.R.* § 1630.2(o) and 29 *C.F.R.* § 1630.9.

It is noted that in providing an accommodation, an employer does not have to eliminate an essential function or fundamental duty of the position. This is because a person with a disability who is unable to perform the essential functions, with or without a reasonable accommodation, is not a "qualified" individual with a disability within the meaning of the ADA. *See* 29 *C.F.R.* 1630.2. *See also Ensslin v. Township of North Bergen*, 275 *N.J. Super.* 352, 361 (App. Div. 1994), *cert. denied*, 142 *N.J.* 446 (1995) (No reasonable accommodation of Police Sergeant's disability would permit him to perform essential functions of job, and thus the township did not violate the New Jersey Law Against Discrimination by terminating the Sergeant after he was rendered paraplegic in skiing accident); *Albertson's Inc. v. Kirkingburg*, 527 U.S. 555 (1999) (Truck driver with monocular vision who failed to meet the Department of Transportation's visual acuity standards was not a "qualified" individual with a disability under the ADA).

In this matter, concerning parking, it appears that M.G. has accepted DOBI's accommodation that she can park in the State Street Parking Garage. Instead, it appears that the only remaining issues in this regard are that she is contesting the need to provide documentation every year to extend the accommodation and that the accommodation can be revoked at any time. Regarding the documentation, M.G. indicates that to maintain handicapped parking privileges, she needs to submit documentation to the MVC every three years. As such, the Commission finds that the only documentation that M.G. needs to provide DOBI concerning her need for a parking accommodation is proof that her handicapped parking privileges are current with MVC. To do otherwise, without a material change in circumstances would be a violation of the State Policy. It is noted that this limitation of documentation is only specific for M.G.'s request for a parking accommodation and does not necessarily preclude other documentation for other accommodation requests. Referring to DOBI's ability to revoke M.G.'s parking privileges at any time, the Commission finds that it would be a violation of the State Policy for DOBI to revoke M.G. parking accommodation without justification. DOBI only has this right if there is a circumstance where providing said accommodation is an undue burden which cannot be reasonably accommodated or if M.G.'s handicapped parking privileges are no longer current.

Regarding the comment “it is very frustrating trying to direct particularly employees with issues like [M.G.] who she has no direct supervisory authority over them so *my frustration is dealing with people with issues like [M.G.]*,” which D.I. made to OER during a Teams Meeting in which other unit members could hear, the record does corroborate that D.I. made this or a similar comment. However, the record also indicates that D.I. was frustrated with M.G. due to behavior which she considered problematic, *i.e.* M.G. missing a training session and M.G. copying her union on emails. Further, the OER confirmed it was its understanding that the comments were directed due to D.I.’s belief that M.G.’s behavior was problematic and not M.G.’s disability. Additionally, M.G. has not provided any confirming witness or any other documentary evidence that demonstrates that D.I. referred to M.G.’s disability and not D.I.’s belief that such behavior was problematic. Mere speculation, without evidence, is insufficient to support a State Policy violation. *See In the Matter of T.J.* (CSC, decided December 7, 2016).

Moreover, regarding the embarrassment and humiliation or otherwise being ostracized by D.I. based on this meeting or any other actions, M.G. has provided no evidence that such alleged actions were based on her membership in a protected class. Rather, this is an apparent disagreement that M.G. has with D.I.’s managerial style. However, disagreements between co-workers cannot sustain a violation of the State Policy. *See In the Matter of Aundrea Mason* (MSB, decided June 8, 2005) and *In the Matter of Bobbie Hodges* (MSB, decided February 26, 2003). It is also noted that the holiday incident which M.G. submits on appeal contradicts M.G.’s claim that D.I. was trying to exclude M.G. as D.I.’s correspondence to M.G. indicates that she was trying to include her in the unit’s holiday party.

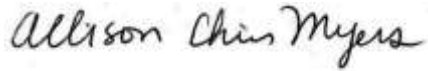
Further, concerning D.I. adding and changing M.G.’s job duties, assignments and responsibilities, as D.I. explained that although she is not M.G.’s direct supervisor, she is responsible for M.G.’s work performance and correcting any of her work that is incorrect or incomplete. Therefore, D.I.’s actions in this regard are considered legitimate business reasons and not in violation of the State Policy. Similarly, regarding work assignments, the Commission notes that is at management’s discretions as to how to best structure and implement its workforce. Also, there is nothing in the record that indicates that the reason why D.I. required M.G. to find replacement coverage when M.G. is on vacation or sick leave or otherwise not available is because of M.G.’s disability. Finally, while it would potentially be a violation of the State Policy if D.I. is making embarrassing statements within earshot of other employees regarding M.G.’s use sick leave time, M.G. has provided no confirming witness or other documentary evidence to confirm this claim.

## ORDER

Therefore, it is ordered that this appeal be granted, in part, as described herein, concerning M.G.’s parking accommodation. All other allegations are 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 19<sup>TH</sup> DAY OF MARCH, 2025



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