



STATE OF NEW JERSEY

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

In the Matter of S.G., Department of
Environmental Protection

CSC Docket No. 2025-2

Discrimination Appeal

ISSUED: March 19, 2025 (EG)

S.G., a Research Scientist 1, Department of Environmental Protection (DEP), appeals the determination of the Assistant Commissioner, Management & Budget DEP, 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 filed a complaint with the DEP's Office of Equal Opportunity & Public Contract Assistance (OEO) on April 23, 2024, alleging that Director N.P. discriminated against her based on age and/or gender. Specifically, she alleged that N.P. discriminated against her when he directed her to transfer data on the bioaccumulation of PFAS in fish tissue to a younger, male employee, and directed the appellant to direct the Office of Research and Development (ORD) to contact the same younger male employee about a project on PFAS in fish. Additionally, the appellant alleged that N.P. discriminated against her by attempting to prevent her from becoming the ITRC-PFAS team lead. Further, she alleged that N.P. negatively reacted to her communications with a manager in another DEP program about a potential wastewater treatment research project and he directed her to step away from this project. Moreover, the appellant alleged that N.P. sent her confrontational emails, and was difficult and demeaning during meetings with her due to her age and gender.

In response to the appellant's complaints, the OEO conducted an investigation and found that the appellant's allegations could not be substantiated that a violation of the State Policy had occurred. The investigation included interviews and the collection and review of pertinent documents. The investigation found that N.P. had non-discriminatory reasons for assigning the younger male employee to the PFAS tasks. It found that this employee had been hired as part of a succession plan for the employee that had previously handled fish biology and that assigning him these tasks were in-line with that plan. In addition, the investigation found that N.P.'s initial denial of the appellant's request to be the ITRC-PFAS team lead was based on his concerns about her workload. The investigation corroborated that the appellant's workload was significantly larger than most of the employees in her program.

Further, the investigation found that N.P. reacted negatively to the appellant communicating with another Director about a potential project because she had not received his approval to do so first. As the appellant's Director, N.P. could set the expectation that he be given prior notification before any of his employees speaks to another Director about potential projects. The investigation found that this protocol was broadly applied by N.P. Moreover, the investigation found that the appellant was asked to step away from the project because the program was going to hire an expert in wastewater treatment to lead the project. Furthermore, the investigation reviewed N.P.'s email communications with the appellant and found that they did not include any hostile or inappropriate language. The emails at times expressed disagreement with the appellant's requests related to projects or with her approach to communications, the emails also frequently expressed his respect for her work and contributions to the program. Lastly, the investigation found no evidence that N.P. was demeaning or difficult in meetings with the appellant due to her age or gender as he had professional and cordial working relationships with other employees who are female and/or older than him. It determined that any conflicts in their working relationship was not based on age or gender.

On appeal, the appellant argues that the OEO investigation did not consider all of the evidence that she provided. She indicates that she gave investigators many emails and documents that were not considered or referenced in the determination letter. Additionally, she asserts that while the determination letter indicates that relevant witnesses were interviewed, it appears to have limited its interview to herself and N.P. Further, the appellant argues that the OEO did not consider the aggregate impact and/or pattern of conduct by N.P. She contends that the investigation failed to address the pervasive nature of N.P.'s conduct or the impact that many minor management decisions may have on an employee. In this regard, the appellant maintains that the number of events and the direct impact that these multiple actions had made her working situation and professional relationships intolerable.

Moreover, the appellant claims that the investigation seemed to give weight to N.P.'s positive relationship with other women and/or older employees in establishing that he could not have had an unprofessional and negative relationship with her. She argues that this logic is flawed as such evidence does not show that N.P.'s mistreatment of her was not based on those same protected classes. The appellant asserts the investigation did not take into consideration whether the actions taken by N.P. had ever been taken against another employee. She contends that N.P.'s decision to take project data away from her and transfer to another employee had not ever happened in her Division as far as she knew. The appellant asserts that this was both unprecedented and targeted and should provide more weight than a generalized positive relationship with other women or older employees. Furthermore, the appellant alleges that N.P. has conducted retaliatory action against her since she filed her complaint. The appellant requests that a review of the management structure that oversees N.P.'s control over the Division of Science and Research and the identification of at least one senior management role with the power to reasonably contradict N.P.'s decisions. She also requests to report to directly report to the Bureau Chief thus minimizing her direct and unmediated contact with N.P. It is noted that the appellant submitted numerous emails in support of her contentions.

In response, the OEO asserts that even though the determination letter did not mention every piece of evidence reviewed in the course of the investigation, all evidence and documents submitted by the appellant were considered. Additionally, the OEO states that beyond interviewing the appellant and N.P., it interviewed four witnesses, one of whom was a retired DEP employee, who was identified as a witness by the appellant. Further, the OEO explains that it has a "zero tolerance" policy standard, which means that even one allegation of discrimination or harassment can implicate the State Policy. The investigation probed into each of the appellant's allegations and found no evidence, or witnesses to corroborate, any causal link between N.P.'s conduct or communications and the appellant's membership in a protected category. Moreover, it adds that the emails submitted by the appellant were reviewed and it found that none of the emails show that N.P.'s communications to the appellant or decisions about her work were related to her age or gender. The fact that the emails showed that N.P. disagreed with the appellant or provided her with constructive criticism was not on its own evidence that his conduct was based upon her age or gender.

Furthermore, the OEO reiterates that N.P. had non-discriminatory reasons for transferring project data to another employee. This other employee was a fish biologist hired as part of the succession planning for the retirement of the Division's prior fish biologist. The investigation found contemporaneous emails written by N.P. that stated this succession plan and that these decisions were made under prior the Director to N.P. With regard to the appellant's assertion that the investigation should not have given any weight to evidence in respect of N.P.'s treatment of other female employees and/or older employees, the OEO states that this assertion is

incorrect. It explains that investigations of workplace discrimination allegations under the State Policy allow the office to examine the respondent's treatment of others similar to the complainant. The OEO maintains that while the investigation did not interview every woman working in the Division, the women who were interviewed, including one Bureau Chief and one scientist, reported they did not have any issues working with N.P., and none of the witnesses stated that N.P. had conflicts with any of the other female employees in the Division. Further, the appellant herself did not identify any women with whom N.P. had any conflicts. Finally, the OEO argues that the appellant raised new allegations in this appeal that were not part of her original complaint. New allegations will be reviewed and addressed by the OEO as a separate matter.

CONCLUSION

Initially, it is noted that on appeal the appellant has described additional incidents that occurred after the filing of her complaint April 23, 2024. Allegations of State Policy violations must first be filed with the OEO, and only after receiving a determination letter from the OEO, will such allegation be reviewed by the Commission if appealed.

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(h) provides, in pertinent part, that retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposed a discriminatory practice, is prohibited by this policy.

N.J.A.C. 4A:7-3.1(i) provides that the burden is on the complainant to articulate a sufficient nexus between the alleged conduct to a protected category pursuant to the State Policy.

N.J.A.C. 4A:7.3-2(i) provides that at the EEO/AA Officer's discretion, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place.

*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.

In response to the appellant's complaints, the OEO conducted an investigation that concluded that her allegations could not be substantiated that a violation of the State Policy had occurred. The investigation included interviews and the collection and review of documents pertinent to the allegation. It found that N.P. had non-discriminatory reasons for assigning the younger male employee to the PFAS tasks as this employee had been hired as part of a succession plan for the employee that had previously handled fish biology and that assigning him these tasks were in-line with that plan. In addition, the investigation found that N.P.'s initial denial of the appellant's request to be the ITRC-PFAS team lead was based on his concerns about her workload. Additionally, the investigation found that N.P. reacted negatively to the appellant communicating with another Director about a potential project because she had not received his approval to do so first. Further, the investigation found that the appellant was asked to step away from the project because the program was going to hire an expert in wastewater treatment to lead the project. Moreover, the investigation reviewed N.P.'s email communications with the appellant and found that they did not include any hostile or inappropriate language. Furthermore, the investigation found no evidence that N.P. was demeaning or difficult in meetings with the appellant due to her age or gender as he had professional and cordial working relationships with other employees who are female and/or older than him.

On appeal, the appellant asserts that the OEO investigation did not consider all the many emails and documents she provided, and it appeared to have limited its interview to herself and N.P. In addition, the appellant argues that the OEO did not consider the aggregate impact and/or pattern of conduct by N.P. Further, the appellant contends that the investigation gave undue weight to N.P.'s positive relationship with other women and/or older employees in establishing that he could not have had an unprofessional and negative relationship with her. Further, she alleged that N.P.'s decision to take project data away from her and transfer to another employee had not ever happened in her Division and that this was both unprecedented and targeted and should provide more weight than a generalized positive relationship with other women or older employees.

The investigation in this matter was thorough and the determinations made by the OEO in this matter were well-reasoned. The OEO indicated even though the determination letter did not mention every piece of evidence reviewed during the investigation, all evidence and documents submitted by the appellant were considered. It also stated that it interviewed four witnesses, including one identified by the appellant. The OEO investigated each of the appellant's allegations and found no evidence, or witnesses to corroborate, any causal link between N.P.'s conduct or communications and the appellant's membership in a protected category. Additionally, the OEO reiterated that N.P. had unrefuted non-discriminatory reasons for transferring project data to another employee as it was as part of the succession planning for the retirement of the Division's prior fish biologist. Regarding the

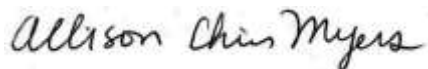
appellant's assertion that the investigation should not have given any weight to evidence in respect of N.P.'s treatment of other female employees and/or older employees, the OEO explained that investigations of workplace discrimination allegations under the State Policy allow the office to examine the respondent's treatment of others similar to the complainant. It indicated that the women who were interviewed did not have any issues working with N.P., and the appellant herself did not identify any women with whom N.P. had any conflicts. Moreover, the appellant has not provided any persuasive evidence in support of her contentions that she was subjected to a violation of the State Policy. In this regard, 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). Therefore, the appellant has not sustained her burden of proof in this matter. Accordingly, based on the foregoing, no basis exists to find a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

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 19TH DAY OF MARCH, 2025



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