



STATE OF NEW JERSEY

In the Matter of Nazia Mughis-Sohrawardy, Environmental Engineer 4 (PS8885G), Department of Environmental Protection

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

Bypass Appeal

CSC Docket No. 2026-1208

ISSUED: September 2, 2026 (GC)

Nazia Mughis-Sohrawardy appeals the bypass of her name on the promotional list for Environmental Engineer 4 (PS8885G), Department of Environmental Protection.

By way of background, the subject examination was announced on June 1, 2022, with a closing date of June 21, 2022. The resulting eligible list of nine names, including the appellant, a nonveteran, promulgated on October 5, 2023 and expired October 4, 2025. A certification was issued on November 9, 2023 (PS232395), containing the names of all nine eligibles, with the appellant's name as the second listed eligible. In disposing of the PS232395 certification, the appointing authority bypassed the appellant and the fourth listed eligible, and appointed the eligibles in the third, fifth, sixth, seventh, and eighth positions, effective March 9, 2024.¹ The second and last certification, containing five names, with the appellant as the second listed eligible, was issued on September 9, 2025 (PS251488). In disposing of the PS251488 certification, the appointing authority removed the eligibles in the first and fourth positions, bypassed the appellant and the third listed eligible, and appointed the eligible in the fifth position (P.T.), effective October 18, 2025.

¹ Agency records indicate that the first listed eligible was not interested in an appointment at that time.

On appeal to the Civil Service Commission (Commission), the appellant presents that:

I achieved Rank #1 on the eligible list PS8885G following the promotional examination for Environmental Engineer 4.² Since the certification of that list, I have been bypassed six times in favor of lower-ranked candidates.³ On each occasion, I was either not interviewed or not provided with a written job-related reason for non-selection.⁴

² As discussed previously, the appellant's name appeared at rank two on the subject list. However, in disposing of PS251488, the appointing authority removed the first ranked eligible. Presumably, this is what the appellant means when she states that she "achieved Rank #1."

³ It is noted that the appellant does not specify or describe the "six bypass actions." However, as indicated previously, only two certifications from the PS8885G list were issued prior to its expiration date, *i.e.*, on November 9, 2023 and on September 9, 2025. A review of the record finds that the appellant's name appeared on the following eligible lists: Senior Environmental Engineer, Water Resources (PS7038G), Department of Environmental Protection, which promulgated on August 14, 2008 and expired on August 13, 2012; Environmental Engineer 3 (PS4935G), Department of Environmental Protection, which promulgated on May 9, 2013 and expired on May 8, 2016; and Environmental Scientist 3, Water Resources (PS3149G), Department of Environmental Protection, which promulgated on November 24, 2016 and expired on November 23, 2019.

⁴ A review of the record finds that in regard to PS7038G, her name was bypassed on a certification issued on August 14, 2008 (PS080978). The appellant appealed her bypass and as indicated in *In the Matter of Nazia Mughis-Sohrawardy* (CSC, decided November 5, 2009), the appellant argued, in part, that she was bypassed in retaliation for a complaint alleging religious discrimination filed with the Office of Equal Opportunity and Public Contract Assistance (EO/PCA). The Commission determined that the appellant did not establish that she had been retaliated against for filing the complaint. Subsequently, as indicated in *In the Matter of Nazia Mughis-Sohrawardy* (CSC, decided January 19, 2011), the Department of Environmental Protection and the appellant entered into a settlement agreement in which the appellant was to receive a permanent and retroactive date of appointment to the Senior Environmental Engineer, Water Resources title. It is noted that the terms of the settlement agreement specifically provide, in pertinent part, under the section, "No Admission of Liability," that the appellant "agrees that **she will not initiate or pursue any other legal action, appeal or claims arising from this matter . . .**" As a result, a review of the available record finds that the appellant received a regular appointment to that title effective July 1, 2008.

With respect to PS4935G, a review of the record finds that the resultant eligible list of three names promulgated on May 9, 2013 and expired on May 8, 2013. The only certification of this list was issued on May 9, 2013 (PS130777), with the appellant's name appearing in the second position. In disposing of this certification, the appointing authority appointed all three eligibles effective May 9, 2013.

With regard to PS3149G, her name was bypassed on a certification issued on December 2, 2016 (PS161588) and on a certification issued on January 2, 2019 (PS190011). The appellant appealed this matter and as indicated in *In the Matters of Nazia Mughis-Sohrawardy and Changi Wu* (CSC, decided March 27, 2018), the appellant argued, in part, that she was improperly bypassed given, that based on education and experience, she was more qualified than the individual who was appointed. She further claimed that she was discriminated against on the basis of gender, race and religion as a result of this bypass, as she ranked higher than the appointed individual. The Commission determined, in part, that other than her assertions regarding discrimination, she did not present any substantive evidence in support of her claims to show that she was discriminated against.

In this regard, she argues “being bypassed six times despite holding the highest rank constitutes a *prima facie* violation of the merit principles established under *N.J.S.A.* 11A:1-2(b) and *N.J.A.C.* 4A:4-4.8(b),” and refers to *In re Foglio*, 207 *N.J.* 30 (2011) and *Carter v. Bordentown Township*, 191 *N.J.* 474 (2007).⁵ She contends that her

. . . most recent bypass (October 29, 2025) occurred without any interview process or provisional appointment. This omission violates *N.J.A.C.* 4A:4-4.8(c), which requires appointing authorities to base bypasses on demonstrable, job-related factors. Denying the top-ranked candidate an interview forecloses the opportunity to present qualifications and constitutes a procedural denial of due process.

The appellant asserts that her repeated bypasses:

. . . were influenced, at least in part, by discriminatory bias and retaliation due to my religion and race. A formal discrimination complaint has been pending with DEP Human Resources since April 2025. The pattern of bypasses that followed this filing, coupled with the absence of legitimate merit-based reasoning suggests retaliatory intent in violation of both state and federal anti-discrimination laws

She maintains that she has an exemplary performance record and has consistently received high ratings on her electronic Performance Assessment Reviews (ePAR). She presents that she has performed duties at the Environmental Engineer 4 level, “including supervising staff, reviewing engineering reports, coordinating complex projects, and signing off on technical reviews.” The appellant further argues that:

Across multiple lists and promotional cycles, I have ranked among the top candidates. The ongoing pattern of bypasses, unsupported by documentation, strongly indicates pretextual reasoning rather than legitimate performance considerations . . . [and requests that] . . . a comprehensive review of all six bypass actions [be conducted] pursuant to *N.J.A.C.* 4A:4-4.8(b); the appointing authority [be directed] to produce written documentation and justification for each bypass; potential discrimination and retaliation [be investigated] in coordination with DEP Human Resources consistent with *N.J.S.A.* 11A:1-2(b) and

⁵ In her initial appeal, the appellant cited this matter as “*Carter v. New Jersey Department of Law and Public Safety*, 91 *N.J.A.R.* 2d (CSV).” However, after DARA staff had requested clarification regarding this matter, in an email sent on August 12, 2026, the appellant indicated the above noted citation. The appellant further noted that while this matter was cited “in connection with the general principle that an administrative agency’s exercise of discretion subject to judicial review when it is arbitrary, capricious, unreasonable, or unsupported by the record. After reviewing the decision more carefully, however, I recognize that *Carter* concerns disciplinary action and progressive discipline rather than a Rule of Three bypass per se.”

applicable civil rights statutes; . . . [a determination be made] whether these actions collectively violated merit-based promotional requirements; . . . [and] . . . if warranted, [her] eligibility for appointment [be reinstated], or order corrective or remedial measures, including reversal or review of the most recent appointment.

In response, the appointing authority maintains that it had previously interviewed candidates, including P.T. and the appellant, in June 2023 for a variety of Environmental Engineer 4 positions. However, neither candidate was selected at that time, although the June 2023 interview rubric results ranked P.T. above the appellant. Subsequently, in October 2025, due to the retirement of one of its Environmental Engineer 4 appointees, the Municipal Finance and Construction Element (MFCE) had a critical need for a supervising engineer in the Engineering Section of the Bureau of Environmental, Engineering, and Permitting (BEEP). The appointing authority explains that based on the June 2023 interview results and the fact that P.T. had 27 years of experience in MFCE, and over 24 years of experience as a BEEP engineer managing State Revolving Fund (SRF) projects, where the critical need existed, it appointed P.T. from the PS251488 certification. The appointing authority notes that the appellant did not have any SRF program experience but rather, the majority of the appellant's experience was in Treatment Water Approvals (TWAs), which is a separate function from SRF work. Thus, the appointing authority emphasizes that in making its decision to appoint P.T. to the subject title, it relied on P.T.'s higher interview score and his significant SRF experience.

With regard to the appellant's assertion that her multiple bypasses were the result of discrimination and retaliation, the appointing authority notes that discrimination complaints are handled by the Office of Equal Employment Opportunity (EEO). As such, the Treatment Works Approval (TWA) unit and Human Resources were unaware of any pending EEO matter. Additionally, it contends that the April 2025 complaint is not relevant to the appointment process which occurred in October 2025. Moreover, the appointing authority indicates that the appellant failed to provide a copy of the April 2025 discrimination complaint in her submissions.

The appointing authority also disputes the appellant's claim that the ongoing pattern of bypasses, which were "unsupported by documentation," "strongly indicates pretextual reasoning rather than legitimate performance considerations." The appointing authority maintains that "interviews are a critical component of the candidate selection process and are the 'documentation' that supports the selection." It presents that the interview panels are balanced, the questions asked during the interview process are fair and reasonable and utilizes a rubric approved by its Human Resources area. It explains that the rubric scores consistently demonstrate that the appellant did not perform as well as other candidates. Specifically, the appellant did not do as well as others on the questions related to supervision and technical program

issues. In support, the appointing authority submits the rubric scores for the June 2023 and January 2024 interviews which shows that the appellant received the lowest and next to lowest scores, respectively.

Moreover, the appointing authority disputes the appellant's assertion that she performed duties at the Environmental Engineer 4 level. In this regard, the appointing authority indicates that after the retirement of the Environmental Engineer 4 in the TWA unit, no staff member has been identified as an "acting" Environmental Engineer 4. Rather, it indicates that after the retirement, all three of the Environmental Engineer 3s in the unit "have been shifted the responsibility of: signing cover letters for TWA approvals[;] signing Valid Time Extension Letters for TWA[;] signing 30-day extension letters for issuance of TWAs[; and] signing Modification Applicability Determination Letters."

The appointing authority also disputes the appellant's contention that she had an "exemplary performance record" and consistently received high ratings on her ePAR evaluations. Specifically, it asserts that although the appellant has the most experience in the TWA program, she has the least amount of direct reports of the three Environmental Engineer 3s in the unit due to her repeated feedback of having too much work, and her delays in completing her assignments. In support, the appointing authority provides project review statistics demonstrating that the appellant "does not process her assigned applications at a rate comparable to other employees resulting in slower productivity." Further, the appointing authority maintains that the Interim Development Plan from the appellant's ePAR signed on April 25, 2025, states that she needs "to improve skills in managing time to complete program works timely."

In reply, the appellant contends that while the appointing authority asserts "a programmatic 'critical need' as justification, its explanations reflect shifting rationales, selective reliance on interview scores, inconsistent treatment of reachability and post hoc reliance on performance metrics that were not identified as promotion criteria at time of certification." Specifically, she argues that unlike the SRF vacancy, although the TWA program "experienced the same supervisory vacancy due to retirement[, it] remains without an Environmental Engineer 4, which resulted in Environmental Engineer 3 staff assuming significant additional responsibilities to maintain regulatory continuity, including supervisory coordination, technical review oversight and issuance responsibilities traditionally performed at the EE4 level." The appellant presents that the TWA Environmental Engineer 4 position has been vacant since June 2025, yet other supervisory vacancies have been filled across the division. She contends that this "undermines the departments assertion that the challenged appointment was driven solely by an objective, pre-established programmatic necessity."

Additionally, the appellant reiterates that the discretion under the Rule of Three must be exercised consistently. In this regard, she argues the appointing authority relied on June 2023 interview scores to support an October 2025 appointment, despite significant organizational changes. Moreover, she argues that given that the interviews were completed prior to the promulgation of the subject eligible list, there is “no indication that the scores were revalidated or assessed for continued relevance to current operational needs.” She further contends that interviews were not applied uniformly, as certain reachable provisional candidates were appointed without having to interview, while other individuals were interviewed. She avers that certain performance metrics were not established as promotional criteria at the time of certification and therefore, should not be utilized. Finally, regarding her discrimination complaint, she presents that although the appointing authority asserts that it “is irrelevant to this appeal,” the appellant notes that the complaint remains pending without disposition and while she does not “seek adjudication of that matter here, the timing of protected activity proceeding repeated bypass actions is contextual information properly within the Commission’s purview when evaluating patterns of discretionary decision-making.”

CONCLUSION

N.J.S.A. 11A:4-8, *N.J.S.A.* 11A:5-7 and *N.J.A.C.* 4A:4-4.8(a)3 allow an appointing authority to select any of the top three interested eligibles on a promotional list, provided no veteran heads the list. As long as that discretion is properly utilized, an appointing authority’s discretion will not be overturned. *N.J.A.C.* 4A:2-1.4(c) provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to bypass the appellant from an eligible list was improper.

Initially, with respect to the appellant’s requests that “a comprehensive review of all six bypass actions [be conducted] pursuant to *N.J.A.C.* 4A:4-4.8(b); [and] the appointing authority [be directed] to produce written documentation and justification for each bypass,” the appellant does not indicate the “six bypass actions” to which she refers. However, as also previously indicated, the record shows that her name was bypassed five times: once on the PS7038G list; twice on the PS3149G list; and twice on the subject list. As further noted above, her prior bypasses on the PS7038G list and the PS3149G list were thoroughly reviewed and discussed by the Commission in its November 5, 2009, January 19, 2011 and March 27, 2018 decisions, respectively. Further, as noted above, with respect to her bypass on the PS7038G list, the terms of the settlement agreement, which was acknowledged by the Commission in its January 19, 2011 decision, specifically provide that the appellant “agrees that she will not initiate or pursue any other legal action, appeal or claims arising from this matter.” Moreover, given that the appellant did not timely request reconsideration,

the Commission cannot further address these matters.⁶ Her bypasses on the PS8885G list are the subject of the instant matter and will be addressed below.

Regarding her request that “potential discrimination and retaliation [be investigated] in coordination with DEP Human Resources consistent with *N.J.S.A.* 11A:1-2(b) and applicable civil rights statutes,” her complaint of alleged violations of the New Jersey State Policy Against Discrimination in the Workplace (State Policy) filed with the appointing authority in April 2025 pertaining to her bypass is still pending.⁷ As such, the Commission cannot address the alleged State Policy claims within the context of this matter. Rather, any discrimination claims pertaining to her bypass in this matter must be addressed as a part of her separate State Policy complaint. Nonetheless, upon receipt of the appointing authority’s determination of her aforementioned complaint, if she disagrees with the determination, the appellant may file a separate appeal with this agency pertaining to the State Policy matter. *See N.J.A.C.* 4A:7-3.2.

In cases of this nature where dual motives are asserted for an employer's actions, an analysis of the competing justifications to ascertain the actual reason underlying the actions is warranted. *See Jamison v. Rockaway Township Board of Education*, 242 *N.J. Super.* 436 (App. Div. 1990). In *Jamison*, *supra* at 445, the court outlined the burden of proof necessary to establish discriminatory and retaliatory motivation in employment matters. Specifically, the initial burden of proof in such a case rests on the complainant who must establish retaliation by a preponderance of the evidence. Once a *prima facie* showing has been made, the burden of going forward, but not the burden of persuasion, shifts to the employer to articulate a legitimate non-retaliatory reason for the decision. If the employer produces evidence to meet its burden, the complainant may still prevail if he or she shows that the proffered reasons are pretextual or that the improper reason more likely motivated the employer. Should the employee sustain this burden, he or she has established a presumption of discriminatory or retaliatory intent. The burden of proof then shifts to the employer to prove that the adverse action would have taken place regardless of the discriminatory or retaliatory motive. In a case such as this, where the adverse action is failure to promote, the employer would then have the burden of showing, by preponderating evidence, that other candidates had better qualifications than the complainant. For the reasons set forth below, the appellant has not presented a *prima facie* case in this matter.

⁶ *N.J.A.C.* 4A:2-1.6 provides that within 45 days of receipt of a decision, a party to the appeal may petition the Civil Service Commission for reconsideration.

⁷ It is noted that on February 6, 2026, the appellant filed a “Request for CSC EEO Assumption of Jurisdiction and Addendum to Pending EEO Complaint.” In a letter dated February 17, 2026, Division of Appeals and Regulatory (DARA) staff informed her that the request was prematurely filed with DARA and the appropriate time to file an appeal would be after receipt of the final letter or determination from the Department of Environmental Protection.

With respect to the appellant's claim that the "appointing authority cannot simultaneously claim broad discretionary authority and selectively invoke interview rubric scores as a justification for bypass," as noted by the Commission in its March 27, 2008 decision, *supra*, it is within an appointing authority's discretion to choose its selection method. Appointing authorities are permitted to develop and utilize objective standards in order to determine how to use that discretion. The use of a panel of interviewers familiar with the position is a permissible way for the appointing authority to make a hiring decision, so long as that hiring decision is in compliance with *N.J.A.C.* 4A:4-4.8(a)3. See *In the Matter of Paul Mikolas* (MSB, decided August 11, 2004) (Structured interview utilized by appointing authority that resulted in the bypass of a higher ranked eligible was not in violation of the Rule of Three). In this matter, the appointing authority conducted interviews with the candidates and then selected the candidates it determined were best suited for the position based, in part, on the interview rubric scores. Moreover, although the appellant argues that the appointing authority relied on June 2023 interview rubric scores to support an October 2025 appointment, there is no provision in Civil Service law or rules that requires an appointing authority to conduct interviews for each vacancy. While the appellant may disagree with this methodology, she has not established that it was improperly implemented or that her non-selection via this process was for an improper or impermissible reason.

Regarding her argument that "certain performance metrics were not established as promotional criteria," for the appointing authority to apply a particular criterion in exercising its discretion under the "Rule of Three," it is not necessary that such criterion be explicitly be announced. In other words, the appointing authority was not required to inform candidates that performance metrics would be utilized in its assessment. As the New Jersey Supreme Court has stated, the reasons that an appointing authority may give for bypassing a higher ranked candidate are "endless – as varied as the candidates themselves." *In the Matter of Nicholas R. Foglio, Firefighter (M2246D), Ocean City*, 207 N.J. 38, 49 (2011). The "Rule of Three" "was not conceived as an immutable or total bar to the application of other important criteria in governmental employment practices." *Terry v. Mercer County Bd. Of Chosen Freeholder*, 86 N.J. 141, 150 (1981). Moreover, the appellant cannot be unaware of her performance record especially when her own ePAR signed on April 25, 2025, states that she needs "to improve skills in managing time to complete program works timely."

With respect to the appellant's argument that the supervisory vacancy in the TWA unit remains unfilled while the appointing authority filled other supervisory vacancies across the division, it is noted that the determination as to whether a vacancy exists and/or will be filled is generally left to the discretion of the appointing authority. See *In the Matter of Michael Shaffery* (MSB, decided September 20, 2006). See also *In the Matter of Todd Sparks* (MSB, decided April 6, 2005); *In the Matter of Deputy Fire Chief, Borough of Roselle* (MSB, decided March 23, 2005); *In the Matter*

of *Institutional Fire Chief* (MSB, decided January 12, 2005). Even if a vacancy exists, there is no provision in Civil Service law or rules that requires an appointing authority to fill a vacancy immediately upon its creation. See *In the Matter of Todd Sparks* (MSB, decided April 6, 2005).

Finally, with respect to the appellant's claims of discrimination and retaliation for her April 2025 formal complaint, as noted previously, her complaint filed with the appointing authority is still pending and as such, the Commission cannot review such claims within the context in this matter. Further, other than her mere allegations, the appellant has not presented any substantive evidence regarding her bypasses that would lead the Commission to conclude that the bypass was improper or an abuse of the appointing authority's discretion under the "rule of three." Moreover, the appellant did not provide a *prima facie* showing that she was bypassed for some invidious reason.

Accordingly, a thorough review of the record indicates that the appointing authority's bypass of the appellant's name was proper, and the appellant has failed to meet her burden of proof in this matter.

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 2ND DAY OF SEPTEMBER, 2026



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