STATE OF NEW JERSEY

In the Matter of T.K., Department of Corrections	:	**DECISION OF THE CIVIL SERVICE COMMISSION**
CSC Docket No. 2026-1556	:	Discrimination Appeal

ISSUED: September 23, 2026 **(SLK)**

T.K., a Correctional Police Sergeant with the Department of Corrections, Northern State Prison, represented by Sergeant Ernesto Hernandez, New Jersey Law Enforcement Supervisory Association (NJLESA) Representative, appeals the determination of the Department of Corrections' Chief of Staff, which substantiated that the appellant violated the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, it was alleged that the appellant belittled another employee who has a disability by calling her "slow" and "inefficient." The investigation revealed that it was more likely than not that the appellant made the statement.

On appeal, the appellant states that at no time was she aware that the complainant had an approved American with Disability Act (ADA) accommodation. She indicates that she was never informed of any work restriction that would indicate that the employee was protected under any disability-related provisions. The appellant argues that because she was unaware of the complainant's disability, no discrimination could have occurred because discriminatory intent requires awareness of a protected status. She claims that comments were made strictly in the context of legitimate supervisory responsibilities and were not discriminatory. The appellant provides that as a supervisor within a correctional setting, she is obligated to address performance concerns that directly impact operational efficiency, institutional safety, staffing accountability, and security. She presents that these performance-related

terms would only have been used objectively and professionally, and solely to address work-related deficiencies, not to demean or target the employee. The appellant reiterates that correctional facilities require timely, efficient, and reliable performance from all staff and failure to address inefficiency or delays can compromise safety, disrupt operations, and negatively affect staff accountability. She emphasizes that if she were to call the employee "slow" and "inefficient," her actions would be consistent with Department of Corrections' supervisory expectations and managerial responsibilities and not motivated by bias or discriminatory animus. Additionally, the appellant provides that there is no evidence that similarly situated employees were treated differently nor was there any protected characteristic that influenced her supervisory decisions. She claims that the substantiated findings appear to rely on perception rather than intent or context and do not sufficiently account for the absence of knowledge or the necessity of performance management in a correctional environment. Finally, the appellant requests a hearing so that she can present witnesses and have testimony provided on her behalf.[1]

In response, the appointing authority presents that the appellant's comment that the complainant was "slow" and said in a derogatory and negative matter was corroborated by a credible witness. Concerning the appellant's argument that she was unaware of the complainant's ADA accommodation and therefore, the comment was purely related to work performance and supervisory responsibility, the appointing authority asserts that the appellant's argument is contradicted by the investigation where the appellant stated to the investigator that "the disability was visible and known to exist." Therefore, the appointing authority contends that the appellant's own statement during the investigation, along with the credible statements of others during the investigation, led to its conclusion that the complainant's disability was physical in nature and generally known by appearance to exist, with the negativity of the comment confirmed by the preponderance of the evidence. Consequently, the appointing authority believes that the appellant's argument must fail. It also emphasizes that the State Policy does not require discriminatory intent, and a pattern of conduct is not required to find that a single comment violates the State Policy.

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, pregnancy, marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression,

[1] The appellant also submits a statement from a subordinate who states that she has never heard the appellant make a discriminatory or otherwise derogatory statement about anyone. However, the fact that the appellant's subordinate did not hear the statement in question is not evidence that the appellant did not make the subject statement, and the context that the statement was made.

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(b) provides that it is a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in (a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

N.J.A.C. 4A:7-3.2(n)1 provides that the appellant has the burden of proof.

N.J.A.C. 4A:2-1.1(d) provides that except where a hearing is required by law, this chapter or *N.J.A.C.* 4A:8, or where the Civil Service Commission finds that a material and controlling dispute of fact exists that can only be resolved by a hearing, an appeal will be reviewed on a written record.

In this matter, the record indicates that appellant called the complainant, who had a known disability, "slow." As such, the record indicates that the appellant made a derogatory comment based on one's disability, in violation of the State Policy. This finding is based on the complainant's complaint, a credible corroborating witness as identified during the appointing authority's investigation, the appellant not denying that she made the comment, and the appellant and others indicating during the investigation that the complainant's disability was physical in nature and generally known by appearance to exist. Therefore, the preponderance of the evidence indicates that the appellant's comment was derogatory in nature in reference to the complainant's disability and not merely related to work performance and the appellant's supervisory responsibility. Moreover, even if the appellant did not have discriminatory intent, the comment is still a violation of the State Policy. *See N.J.A.C.* 4A:7-3.1(b). Therefore, based on this corroborating evidence, there is no basis to send this matter for a hearing. *See N.J.A.C.* 4A:2-1.1(d).

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 23RD DAY OF SEPTEMBER, 2026



Mary Cruz
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Shannon L. Dalton
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: T.K.
Ernesto Hernandez
Dana M. Lane, Esq.
Division of Equal Employment Opportunity and Affirmative Action
Records Center