



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of K.B., Department of  
Environmental Protection

Administrative Appeal

CSC Docket No. 2016-3588

ISSUED: JUL 27 2017 (HS)

The Communications Workers of America, AFL-CIO (CWA), represented by Annmarie Pinarski, Esq., appeals the appointment of K.B. to the noncompetitive title of Geographic Information Systems (GIS) Specialist 3 with the Department of Environmental Protection.

By way of background, in *In the Matter of Reallocation of State, Local and Common Titles from the Competitive to the Non-Competitive Division of the Career Service, Phase 2* (CSC, decided December 5, 2012), the Civil Service Commission (Commission) reallocated the title of GIS Specialist 3, among other titles, to the noncompetitive division of the career service. A review of the job specification reveals that an individual appointed to that title is required to possess a Bachelor's degree and two years of experience with geographic information systems including computer graphics and computer hardware digitizing procedures. Applicants who do not possess the required education may substitute experience as indicated on a year-for-year basis. A Master's degree in Geography, or Environmental Science including or supplemented by the additional credits indicated below may be substituted for one year of the indicated experience. A specific Bachelor's degree in Geography, Environmental Science or related field with 12 semester hours in computer mapping/GIS which shall have included spatial programming and digital image processing may be substituted for one year of the above experience. Agency



records indicate that K.B., a non-veteran, received a regular appointment to the title effective March 19, 2016, and he continues to serve in that capacity.<sup>1</sup>

On appeal to the Commission, CWA states that division employees, including Patrick Woerner, a CWA Shop Steward, expressed opposition to the process in which the appointing authority engaged to appoint K.B. Specifically, the appointing authority did not post an employment notice for the position and then informed division employees that a candidate had been chosen. Division employees reviewed K.B.'s qualifications<sup>2</sup> and spoke directly with him about his qualifications, particularly his prior experience with geographic information systems. After careful consideration, these employees questioned whether K.B. had the requisite experience per the Civil Service job specification. Despite the concerns expressed by these employees to Human Resources (HR), the appointing authority carried out the decision to hire K.B. without providing documentation establishing his qualifications to CWA. CWA requests that the Commission review the process undertaken by the appointing authority to fill the position for compliance with the Civil Service Act. It argues that the appointing authority ignored the concerns of division employees and failed to ensure that K.B. possessed the requisite experience. In support, it submits e-mail correspondence.

In response, the appointing authority states that K.B.'s resume was reviewed by HR, and clarified with the candidate, to ensure that he met the requirements prior to hiring him for the position.

## CONCLUSION

*N.J.A.C.* 4A:4-1.1(b) provides that an appointing authority may be authorized to make a regular appointment of a qualified person to a title in the noncompetitive division of the career service without an examination and that preference shall be given to disabled veterans and then veterans.

*N.J.S.A.* 11A:5-8 specifies that:

From among those eligible for appointment in the non-competitive division, preference shall be given to a qualified veteran. Before an appointing authority shall select a nonveteran and not appoint a qualified veteran, the appointing authority shall show cause before the

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<sup>1</sup> It is noted that the length of the working test period in State service, with exceptions that are not relevant here, is a period of four months of active service, which may be extended for an additional two months. See *N.J.A.C.* 4A:4-5.2(b). As such, it appears that K.B. passed his working test period.

<sup>2</sup> It is noted that individual personnel records, with exceptions that are not relevant here, are not public records and shall not be released other than to the subject employee, an authorized representative of the employee, or governmental representatives in connection with their official duties. See *N.J.A.C.* 4A:1-2.2(b).

Civil Service Commission why a veteran should not be appointed. In all cases, a disabled veteran shall have preference over all others.

Initially, it is noted that the Commission generally only reviews noncompetitive appointments where veterans challenge their non-appointment to the noncompetitive title. *See e.g., In the Matter of Kevin Potter, Jr.* (CSC, decided April 19, 2017); *In the Matter of Alan Gatto* (CSC, decided November 2, 2011), *aff'd on reconsideration* (CSC, decided April 18, 2012). However, notwithstanding the apparent lack of standing of the division employees challenging K.B.'s appointment, the Commission will address the instant appeal.

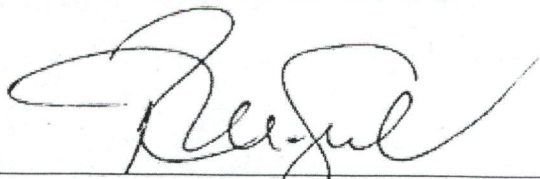
CWA objects to K.B.'s appointment on the bases that an employment notice was not posted and that the appointing authority appointed K.B. without providing documentation of his possession of the necessary experience despite concerns expressed by division employees. However, Civil Service law and rules do not specify posting requirements for noncompetitive appointments. Moreover, it is management's prerogative to choose a qualified candidate, and the appointing authority has confirmed here that it reviewed K.B.'s resume to ensure that he met the requirements for the title of GIS Specialist 3. Furthermore, it should be noted that the minimum requirements listed in the job specification for a title are derived from the underlying knowledge, skills, and abilities needed in order to perform the duties of the title, not the duties of specific positions. Upon review of the record, the Commission finds that the appointing authority's determination that K.B. met the minimum requirements for the title of GIS Specialist 3 was reasonable and that the appointing authority appropriately utilized its discretion to make a noncompetitive appointment.

### 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 26<sup>TH</sup> DAY OF JULY, 2017



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Civil Service Commission



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