

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

RE:

2011 REVIEW AND SELECTION OF CORRECTION OFFICERS BY THE
MASSACHUSETTS DEPARTMENT OF CORRECTION

I-11-268

PROCEDURAL ORDER

- On August 5, 2011, the Civil Service Commission (Commission) received a “bypass appeal” from an individual (Appellant) who sought appointment as Correction Officer I (COI) at the Massachusetts Department of Correction (DOC). (See CSC Case No. G1-11-248)
- As part of her appeal, the Appellant indicated that she had been bypassed based on the results of a psychological evaluation.
- On August 19, 2011, DOC submitted a Motion to Dismiss the Appellant’s appeal, arguing that she had not been “bypassed” but, rather, had been terminated during her probationary period. Thus, according to DOC, the Commission lacked jurisdiction to hear the appeal.
- On August 30, 2011, a pre-hearing conference was held at which time I heard oral argument from both parties.
- As part of the pre-hearing conference, DOC stated that the normal review and selection process was not followed regarding the appointment of the 58 Correction Officers which is the subject of the Appellant’s appeal.
- DOC’s normal practice, which appears to be consistent with the delegation agreement between DOC and the state’s Human Resources Division (HRD), is to offer candidates conditional offers of employment subject to successful completion of such medical-related screening including drug screening and a psychological evaluation. If the candidate does not successfully “pass” the drug screening or psychological evaluation, his / her conditional offer of employment is rescinded and he / she is not appointed. If a candidate who scored lower on the civil service Certification is selected, the non-selected candidate is advised of his / her right to file a bypass appeal with the Commission.
- Here, apparently as a result of administrative issues related to a change in medical vendors, DOC issued “offers of employment” to 58 candidates “contingent upon successful completion of the drug and psychological screening.” All 58 candidates were appointed and enrolled in a training academy before such screening was completed.

- The Appellant, and any other candidate that failed the drug screening or psychological evaluation was terminated and removed from the academy. Had DOC followed its own longstanding procedures, and conducted this screening prior to appointment, the Appellant would have had the right to contest her non-selection to the Commission as 55 of the selected candidates were ranked below her on the civil service Certification.
- This arbitrary change in process appears to have allowed DOC to circumvent those sections of the civil service law and rules that allow bypassed candidates to file an appeal with the Commission.
- Further, it has forever placed a blemish on the records of individuals who, rather than being “bypassed” are now considered “terminated” from the Massachusetts Department of Correction for “failing” a psychological evaluation that should have been conducted prior to appointment.
- At the pre-hearing conference, the Appellant spoke eloquently about the precarious situation this has put her in, having resigned from her previous employer and having to explain why she was “terminated” from DOC to prospective employers.

For all of the above reasons, the Commission, on its own its own initiative, pursuant to its authority under G.L. c. 31, § 2(a), will conduct an investigation regarding DOC’s review and selection of correction officers from Certification No. 4010033 and any other Certifications in which individuals were appointed and employed prior to the completion of drug screening and psychological evaluations.

A hearing will be conducted at the offices of the Commission on Monday, September 26, 2011 at 11:00 A.M.

On or before Monday, September 19, 2011, in preparation for this hearing, DOC and HRD shall produce and deliver to the offices of the Civil Service Commission; One Ashburton Place, Room 503, Boston, MA 02108, the following records in the possession, custody or control:

For the period July 1, 2010 to the present, any emails, memos, letters or other records in their custody, possession and/or control regarding the review and selection process of correction officers from Certification No. 4010033 (or any other certification in which individuals were appointed and employed prior to drug screening and psychological evaluations.) Records include all means by which information may be stored, including, but not limited to: eligible lists, Certifications, other written or printed materials, photocopies, electronic or magnetic recordings, and computer files, tapes and disks, including emails and landline phone and cell phone bills; offers of employment, notices of hearings related to termination, and correspondence / communication with prior or current vendors responsible for conducting psychological or drug screening.

Further, DOC shall, within 7 days of receipt of this procedural order, mail a copy of this procedural order to any candidates from Certification No. 4010033 that were employed by DOC and then terminated during their probationary period for failing to pass a psychological evaluation or drug screening, with a copy to the Commission. Those

candidates will be permitted to attend the September 26, 2011 hearing and offer any written or oral comments.

Civil Service Commission

Christopher C. Bowman
Chairman
September 8, 2011

Notice to:
Jeffrey Bolger (DOC)
John Marra, Esq. (DOC)