



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Susan Sullivan,  
Department of Education

CSC Docket No. 2015-622

Classification Appeal

ISSUED: **OCT 25 2016**

Susan Sullivan appeals the attached April 10, 2015 and August 19, 2014 decisions of the Division of Classification and Personnel Management (CPM)<sup>1</sup> which found that her position with the Department of Education is correctly classified as Planning Associate 2. She seeks a Planning Associate 3 classification in these proceedings.<sup>2</sup>

The appellant requested a review of her position as a Planning Associate 2, a title in the non-competitive division to which she was regularly appointed on December 1, 1997. Her position, located in the Department of Education's Office of Educational Technology, reports to a Director 2, Education. The overriding goal of the Office is to support districts and schools in developing necessary technology infrastructure, professional development, and policies and practices to implement standards, initiatives and grant programs and fiscal administration.

In an initial determination dated June 23, 2014, copy attached, CPM found that the appellant's position was properly classified as a Planning Associate 3. Subsequently, CPM issued a revised determination dated August 19, 2014 and, as described therein, found that based on the primary duties of Ms. Sullivan's position,

<sup>1</sup> Now the Division of Agency Services.

<sup>2</sup> In her appeal, and in CPM's determinations, the Planning Associate 1 title is indicated as the highest title in the series. However, the Planning Associate title series has been renumbered, effective July 25, 2015. Based on this renumbering, the Planning Associate 1 title is now Planning Associate 3.

her title is properly classified as Planning Associate 2. Specifically, it indicated that Planning Associate 3 is in the "R" employee relations group (ERG), and therefore, must supervise permanent employees, including completion of formal performance evaluations. It found that since the appellant did not supervise, the position was appropriately classified as Planning Associate 2. Upon a re-review, CPM confirmed its previous determination on April 10, 2015.

On appeal to the Civil Service Commission (Commission), the appellant contends that supervising permanent employees or doing their performance evaluations is not a requirement in the job specification for Planning Associate 3 or in the application of the title across the Department of Education. She submits a list of 30 Planning Associates 3 and 106 Education Program Development Specialists 3 who, she maintains, do not supervise subordinates. Ms. Sullivan explains that she has been the State Coordinator for the Technology Standard since 2008, and peers who are also State Coordinators of Standards in different areas hold the Planning Associate 3 title and do the same work. She states that no written basis for this determination exists in policy or statute, it does not match existent populations of employees including her peers, and it is a narrower interpretation than existent staff, workloads and documentation show. She requests that the original June 23, 2015 determination be re-instated as it stated that all involved parties have reviewed the work/documentation and found that it appropriately met the level of Planning Associate 3, and the Department of Education did not appeal the determination. Additionally, she contends that since no action was taken in 30 days, the second determination should be void.

As to her duties, the appellant states that she works with higher education, organizations, institutions, and businesses, across departments, external and internal committees, administrators, county councils, districts, schools, coordinators, teachers, parents and students to research, develop, enact, and support the initiation of a standard impacting curriculum statewide. She and her peers oversee all the support and collaborative efforts across all layers of the educational spectrum, and she establishes relationships and works with multiple offices within the department, colleges, organizations, businesses, and State and local committees. She states that she supervises plans, programs and data as well as performs work of considerable difficulty with a high level of independence, which is not required of a Planning Associate 2.

## CONCLUSION

The definition section of the job specification for the title Planning Associate 2 states:

Under direction of a Planning Associate 1 (sic), manager, or other supervisory official in the Department of Education, develops short and

long-term education and/or financial plans by conducting analyses and evaluations of curricula and other education programs, surveys, needs assessments, and related research; establishes, maintains and evaluates program and fiscal data related to State and federal aid, grant applications, and allocations; performs mandated regulatory functions; works with independence in areas of assignments; does other related duties.

The definition section of the job specification for the title Planning Associate 3 states:

Under direction of a manager, in a State department, supervises the development of short and long-term education and/or financial plans by conducting analyses and evaluations of curriculum and other education programs, surveys, needs assessments, and related research; supervises the establishment, maintenance, and evaluation of program and fiscal data related to State and federal formula aid and discretionary grant applications and allocations; performs mandated regulatory functions; performs work of considerable difficulty and works with a high level of independence; does other related duties as required.

Initially, regarding CPM's determinations, it is noted that *N.J.S.A.* 11A:3-1 and *N.J.A.C.* 4A:3-3.1 provide that each position in the career and unclassified services shall be assigned by the Commission to a job title. Moreover, *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. *N.J.A.C.* 4A:3-3.5(a) states that when the duties and responsibilities of a position change to the extent that they are no longer similar to the duties and responsibilities set forth in the specification, and the title is no longer appropriate, the Commission shall reclassify the position to a more appropriate title if there is one. CPM initially determined that the position was properly classified as Planning Associate 3. For reasons unknown, it re-reviewed this determination after issuing the determination, and reversed itself. This is entirely appropriate and CPM has the authority to do so. The fact that the initial determination allowed only 30 days for the appointing authority to implement it is not a regulation preventing CPM from issuing a new determination. In fact, CPM reconfirmed its determination upon a further review on April 10, 2015. Administrative errors can be corrected at any time and no vested or other rights are accorded by an administrative error. See *Cipriano v. Department of Civil Service*, 151 *N.J. Super.* 86 (App. Div. 1977). Moreover, the Commission has the authority to rescind a final administrative determination or correct a determination. Further, the fact that the Department of Education did not appeal the first determination is of no moment as State agencies do not have the right to appeal a classification determination.

Based upon a thorough review of the information presented in the record, it is clear that the appellant's position is properly classified as Planning Associate 2. Contrary to the appellant's assertions, in order to be classified as a Planning Associate 3, an incumbent must be considered a supervisor. Moreover, while the appellant argues that there are many other individuals classified as Planning Associate 3s who do not supervise, such an argument is unpersuasive. Initially, the Commission notes that a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. *See In the Matter of Dennis Stover*, Docket No. A-5011-96T1 (App. Div. October 3, 1998), *affirming In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided February 20, 1997). *See also, In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Further, while the definition of Planning Associate 3 provided above does not explicitly outline the scope of supervision required of an incumbent, it is clear that the title is at the supervisory level. In this regard, in addition to the inclusion of such language in the definition, several examples of work listed in the job specification confirm that individuals in this title function as supervisors. For example, and most illustrative, the first listed example of work in the job specification states that an incumbent: "Plans, organizes, and assigns the work of the organizational unit and evaluates employee performance and conduct, enabling the effective recommendation of the hiring, firing, promoting, and disciplining of subordinates." As discussed below, the inclusion of this duty alone transforms a title to supervisory in nature.

Further evidence that the Planning Associate 3 title is at the supervisory level is its inclusion in the "R" ERG. In this respect, titles are assigned to ERGs based on the classification of the position by this agency. *See N.J.S.A. 11A:3-1*. Each ERG is distinctly defined, and the "R" ERG is defined as those titles used in the primary or first level of supervision. *See In the Matter of Alan Handler, et al.* (CSC, decided October 7, 2015) (Commission found that Auditor 1 was a supervisory level title based on job definition, duties and inclusion in "R" ERG).

Moreover, and most importantly, when a title is supervisory in nature, the Commission has found that, along with the myriad of other supervisory duties that must be performed, the *essential component* of supervision is the responsibility for formal performance evaluation of subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 8, 2001). As such, in order to be classified at the level of Planning Associate 3, an incumbent must supervise subordinate staff, including having the responsibility for completing formal performance evaluations. Merely making recommendations regarding a subordinate's performance, or even assisting in the preparation of a performance evaluation is not sufficient. Rather, to be considered a supervisor, the individual must be the person actually administering and signing off on the evaluation as the subordinate's supervisor. In this regard, only the individual who signs the evaluation as the supervisor can be

considered to have the ultimate decision-making responsibility for that subordinate's rating. Additionally, supervision or coordination of a program or area is insufficient without being responsible for the above-stated duties. It is axiomatic that an individual responsible for the oversight of a program necessarily is responsible for the ultimate supervision, performance *and evaluation* of employees in that program. Finally, in light of the appellant's contentions regarding other individuals in the Planning Associate 3 and similar level titles, the Department of Education is directed to ensure that **any** employee in the title of Planning Associate 3 is currently assigned appropriate supervisory duties as described above. Regardless, since a review of the record does not establish that the appellant performs such duties, the proper classification of her position is Planning Associate 2. Accordingly, a thorough review of the entire record fails to establish that Susan Sullivan has presented a sufficient basis to warrant a Planning Associate 3 classification of her position.

Finally, the Commission directs the Division of Agency Services to undertake an analysis of the Planning Associate 3 job specification to determine whether it needs to be modified to clarify the issue of supervision.

#### ORDER

Therefore, the position of the Susan Sullivan is properly classified as a Planning Associate 2.

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 19<sup>th</sup> DAY OF OCTOBER, 2016



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Assistant Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P. O. Box 312  
Trenton, New Jersey 08625-0312

Attachments

c: Susan Sullivan  
Dodi Price  
Kelly Glenn  
Records Center



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
AGENCY SERVICES  
P. O. Box 313  
Trenton, New Jersey 08625-0313

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair/Chief Executive Officer

April 10, 2015

Susan Sullivan

**Re: Classification Appeal – Planning Associate 2 (CSC Docket # 2015-622)  
Position # 951083, EID # 000345262, Log # 02150505**

Dear Ms. Sullivan:

This is to inform you, and the Department of Education, of our determination concerning the classification appeal referenced above. This determination is based on a thorough review and analysis of documents submitted, including the Position Classification Questionnaire (DPF-44S), organization chart, and the Performance Assessment Review (PAR); and a telephone audit conducted on March 27, 2015. Duties performed were later confirmed with Laurence Cocco, Director.

**Issue:**

You are currently serving permanently (RAN) in the title, Planning Associate 2 (72624; P28; 28) and contend that you are performing duties and responsibilities commensurate with the title, Planning Associate 1 (72625; R30; 30). A final determination was previously issued on August 19, 2014 which found that your position was appropriately classified as Planning Associate 2; as such, you exercised your right to file an appeal with the Division of Appeals and Regulatory Affairs (DARA). In a letter from DARA to you, dated February 19, 2015, DARA advised that this matter has been referred back to the Division of Agency Services for further review.

**Organization:**

Your position is assigned to the Office of Educational Technology, Department of Education. Your supervisor is Laurence Cocco, Director 2 Education (70003; M34; 34), and you presently have no direct employee supervisory responsibility.

**Findings of Fact:**

The primary responsibilities of the position include, but are not limited to, the following:

- Oversees the revision of State technology literacy standards (NJCCCS8), and acts as liaison between the Department of Education and technology groups across the State.
- Provides support for districts and schools in the development of technology infrastructure, professional development, policies and practices for PARCC assessment, and overall technology readiness to deliver digital learning; and coordinates such processes with State outreach teams across Educational Technology Training Centers (ETTC).

**Review and Analysis:**

Currently, your position is classified by the title, Planning Associate 2 (72624; P28; 28). The definition section of the job specification for the title states:

*“Under direction of a Planning Associate 1, manager, or other supervisory official in the Department of Education, develops short and long-term education and/or financial plans by conducting analyses and evaluations of curricula and other education programs, surveys, needs assessments, and related research; establishes, maintains, and evaluates program and fiscal data related to state and federal aid, grant applications, and allocations; performs mandated regulatory functions; works with independence in areas of assignments; does other related duties.”*

An incumbent serving in a position classified by the title Planning Associate 2 performs duties related to education plans and exercises independent judgment within the areas of specific assignment; coordinates the ongoing statewide implementation and evaluation of instructional programs and ensures adherence to federal law and regulations; coordinates program maintenance and fiscal reporting; develops technical documents for education systems to evaluate education services; may assist in the establishment of developmental priorities for curriculum, training services and funding; analyzes complex demographic data, develops plans, and recommends policy; and, trains other professional or nonprofessional personnel.

You contend that the title, Planning Associate 1 (72625; R30; 30) is the appropriate classification for your position. The definition section of the job specification for the title states:

*“Under direction of a manager, in a state department, supervises the development of short and long-term education and/or financial plans by conducting analyses and evaluations of curriculum and other education programs, surveys, needs assessments, and related research; supervises the establishment, maintenance, and evaluation of programs and fiscal data related to state and federal formula aid and discretionary grant applications and allocations; performs mandated regulatory functions; performs work of considerable difficulty and works with a high level of independence; does other related duties as required.”*



An incumbent serving in a position classified by the title Planning Associate 1 performs duties related to education plans and performs duties at a higher level of complexity and high level of independence as necessitated by the responsibility to supervise the program and staff; an incumbent in this title is required to plan, organize, and assign the work of the organizational unit; evaluate employee performance and conduct, which enables the effective recommendation of the hiring, firing, promoting, and disciplining of subordinates; positions classified by this title are responsible for monitoring the ongoing statewide implementation and evaluation of instructional programs and ensuring adherence to federal law and regulations; overseeing the ongoing maintenance of local district education goals, monitoring the progress and recommending improvement in meeting goals; supervises the development of funding criteria and competitive grant application procedures for awarding contracts to eligible agencies; reviews, establishes, and determines priorities for curriculum and training services and funding; supervises the design and implementation of evaluation instruments to analyze effectiveness of training, curriculum, and related education services.

While supervisory responsibility over subordinate staff is a key distinguishing factor between these two titles, other criteria also determine the appropriateness of the use of these titles. Planning Associate 2 primarily coordinates program activities, in order to systematically organize activities or functions within a program to achieve organizational or unit goals. In addition to supervision of staff and higher level of difficulty related to assigned tasks, Planning Associate 1 is primarily responsible for program supervision. Responsibility for program supervision involves overseeing, directing and coordinating overall program activities and functions. It is important to note that cooperative liaison or coordination of program activities with contacts of other organizations in the implementation of Department of Education programs, for classification purposes, is not considered supervisory in nature. In addition, establishing and convening committees is not recognized as a supervisory responsibility, except where the performance review and evaluation of members of the committee is conducted by the incumbent.

Your position currently does not involve staff or program supervision. It is further noted, based on our findings and the organizational structure of your unit, the responsibility for program supervision and evaluation of the staff within the Office of Educational Technology, currently rests with the position of the Director.

**Determination:**


Based on the findings of fact stated above, it is our determination that your position does not meet the criteria established for the title, Planning Associate 1 (72625; R30; 30). By copy of this letter, the appointing authority is advised that based on the duties currently assigned, your position is presently properly classified in the title, Planning Associate 2 (72624; P28; 28).

New Jersey Administrative Code 4A:3-3.5(c)1 states, "Within 30 days of receipt of the reclassification determination, unless extended by the Chairperson or designee in a particular case for good cause, the appointing authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to the duties and responsibilities to which the

employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional, or lateral, shall be effected in accordance with all applicable rules.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to Written Record Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the documentation being disputed and the basis for the appeal.

Sincerely,



Staci Fanelli  
Human Resource Consultant 5

SF/so

C: Heidi Musselman, Manager 1, Human Resources  
Saheed Olushi  
Team Files  
PMIS Unit  
Nick Kanellis, *Records Imaging Center*



Document 4

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P. O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

August 19, 2014

(Revised Determination)

Susan Sullivan  
Department of Education  
PO Box 500  
Trenton, NJ 08625-0500

Re: **Classification Review, Planning Associate 2**  
Position# 0951083, CPM log# 03140096  
EID# 000318898

Dear Ms. Sullivan:

**Issue:**

On your DPF-44S you state that you are serving in the title, Planning Associate 2 (72624/P28). You contend that you are performing duties and responsibilities commensurate with the title, Planning Associate 1 (72625/R30).

**Organization:**

Your position is located in the Office of Educational Technology, Department of Education. You report directly to Laurence Cocoo, Director 2, Education. You oversee the work of independent contractors, but you do not conduct Performance Evaluation Reviews (PER) for these employees. Employees who assign work, review the work of others, and provide information to supervisory staff, but do not perform a PER "take the lead" rather than supervise. Non-supervisory employees may "take the lead" without working out of title.

**Finding of Fact:**

- Oversees aspects of the Standards Revision Process for the Technology Standard.
- Acts as lead for the Partnership for Assessment of Readiness for College and Careers (PARCC) Technology Readiness Team for Central New Jersey.

**Review and Analysis:**

The definition section of the job specification for the current title, Planning Associate 2 (72624/P28), states:

*Under direction of a Planning Associate 1, manager, or other supervisory official in the Department of Education, develops short and long-term education and/or financial plans by conducting analyses and evaluations of curricula and other education programs, surveys needs assessments, and related research; establishes, maintains, and evaluates program and fiscal data related to state and federal aid, grant applications, and allocations; performs mandated regulatory functions; works with independence in areas of assignments; does other related duties.*

The definition section of the job specification for the requested title, Planning Associate 1 (72625/R30), states:

*Under direction of a manager, in a state department, supervises the development of short and long-term education and/or financial plans by conducting analyses and evaluations of curriculum and other education programs, surveys, needs assessments, and related research; supervises the establishment, maintenance, and evaluation of programs and fiscal data related to state and federal formula aid and discretionary grant applications and allocations; performs mandated regulatory functions; performs work of considerable difficulty and works with a high level of independence; does other related duties as required.*

The title, Planning Associate 1 (72625/R30), is in the "R" bargaining unit, a supervisory union. Employees in this title must supervise permanent employees and do their Performance Evaluation Reviews (PER).

**Determination:**

Based on this fact, and the written record, it is our determination you are appropriately classified in your current position as a Planning Associate 2 (72624/P28).

The specification for Planning Associate 2 is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed. The


Susan Sullivan  
August 19, 2014  
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relevancy of such specific tasks is determined by an overall evaluation of their relationship to the general classification factors listed in the specification.

Please be advised that in accordance with *N.J.A.C. 4A:3-3.9*, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312.

Please note that the submission of an appeal must include written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Annemarie Nostrand, Team Leader  
Classification and Personnel Management

AN/rh

c: Heidi Musselman, Manager 1, Human Resources, (EDA)



Document 2

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P. O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

June 23, 2014

(Revised)

Susan Sullivan  
Department of Education  
PO Box 500  
Trenton, NJ 08625-0500

Re: Classification Appeal, Planning Associate 2  
Position# 0951083, CPM log# 03140096  
EID# 000318898

Dear Ms. Sullivan:

This is in response to the classification appeal, received on March 5, 2014, submitted to this office on your behalf by Jackie Backlund, Personnel Assistant 2. The package indicates that you are appealing your current permanent title of Planning Associate 2 (72624/P28) and that you believe the appropriate classification of your position is Planning Associate 1 (72625/P30). Your position is located in the Office of Educational Technology within the New Jersey Department of Education.

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44); organization chart; your Performance Evaluation System (PES); your statements; and the statements of your supervisor, program manager, and appointing authority. Based on the written record and that the aforementioned parties are in agreement with the stated duties, it is our determination that the appropriate classification of your position is Planning Associate 1 (72625/P30). This action shall be effective March 22, 2014.

This classification determination does not imply that you will meet the eligibility requirements of the title. It is the responsibility of the appointing authority to ensure that an incumbent meets the eligibility requirements prior to any appointment.

Susan Sullivan

June 23, 2014

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The New Jersey Administrative Code 4A:3-3.5(c)1 states that "within 30 days of receipt of the reclassification determination, unless extended by the [Commission] in a particular case for good cause, the appointing authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to the duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional or lateral, shall be effected in accordance with all applicable rules."

Within 30 days of receipt of this letter, we will implement reclassification procedures to reclassify this position to the title Planning Associate 1 (72625/P30) unless we are advised by the appointing authority that duties and responsibilities commensurate with your permanent title will be assigned.

Please be advised that in accordance with *N.J.A.C.* 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Merit System Practices and Labor Relations, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

  
Annemarie Nostrand, Team Leader  
Classification and Personnel Management

AN/rh

c: Heidi Musselman, Manager 1, Human Resources, (EDA)

