

indicates that the definition for Program Specialist 3 states that incumbents *may* directly supervise staff and therefore the requirement that supervision is mandatory is a misstatement of, and unfounded by, the definition. The appellant argued that she has been in the title Program Development Specialist 1 since February 1994, and that her title was changed to Program Specialist 3 with no change in status of salary, and without explanation to her. She contends that reclassification of the position to Program Specialist 1 is inconsistent with her placement in the title Program Specialist 3 and 2013.

CONCLUSION

The definition section of the job specification for Program Specialist 4 states:

Under the direction of a supervisory official in a State department or agency, supervises professional and/or technical staff engaged in program activities; performs the most difficult and sensitive professional, administrative and analytical work to promote the planning, operation, implementation, monitoring and/or evaluation of various programs and services administered by the Department of assignment; supervises and conducts the research and field work necessary to meet the needs of the appropriate state and/or local public or private agencies; does other related work.

The definition section of the job specification for Program Specialist 1 states:

Under the close supervision of a Program Specialist 3 or 4, or other supervisory official in a State department, institution or agency, assists in the professional, administrative and analytical work to promote the planning, operation, implementation, monitoring and/or evaluation of various programs and services administered by the Department of assignment; assists in conducting the research and field work necessary to meet the needs of the appropriate state and-for local public or private agencies; does other related work.

In the instant matter, DAS found that the appellant's position was properly classified as an Program Specialist 1 on the basis that she is not performing the duties of a second-level supervisor, *i.e.*, supervising a primary-level supervisor, is not performing the duties of a first-level supervisor, *i.e.*, is not supervising three subordinate professionals, and is not performing the duties of a lead worker. Because of numerous position classification challenges, it became necessary for this agency to consider the legality of having supervisory and non-supervisory incumbents classified by the same title that is included in either a primary-level ("R") or secondary-level ("S") Employee Relations Group (ERG). Therefore, in 2015, the Commission determined that classifying employees in titles assigned to

primary-level and secondary-level supervisory employee relations groups who do not have formal performance evaluations responsibility for subordinate staff members could create a conflict of interest between incumbents who are required to supervise staff serving in the same title. See *West Orange Board of Education v. Wilton* 57 N.J. 417 (1971). In addition, it was found that a major factor in this agency's setting of the compensation levels (i.e., class codes) for titles assigned to secondary-level supervisory employee relations group is that incumbents in these bargaining units all have the authority to recommend the hiring, firing, and disciplining of employees who supervise subordinate employees. Therefore, since October 2015, the Commission has upheld the classification standard that in order for a position to be classified in a title assigned the primary-level or secondary-level employee relations group, incumbents are required to be the rater of employee, or subordinate-level supervisory employee, performance using a formal performance evaluation system. See *In the Matter of Alan Handler, et al.*, (CSC, decided October 7, 2015); *In the Matter of Marc Barkowski, et al.*, (CSC, decided October 19, 2016); and *In the Matter of David Bobal, et al.*, (CSC, decided November 23, 2016).

In making classification determinations, emphasis is placed on the Definition section to distinguish one class of positions from another. The Definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. Nonetheless, 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).

In the past, positions were erroneously classified in titles that were in the "R" ERG if they had supervisory responsibilities, or performed work that is more complex. However, in *Handler, supra*, the Commission found that:

in order to be classified at the level of Auditor 1, an incumbent must supervise subordinate staff, including having the responsibility for performing 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.

With respect to secondary-level supervisory titles, in *Bobal, supra*, which also involved with the Supervising Auditor, Taxation title, the Commission specifically determined:

[c]lassifying employees in the title in the "S" ERG without performance evaluation responsibility for at least one primary-level supervisor could create a conflict of interest between secondary supervisory and primary supervisory staff being represented by the same bargaining unit.

It is clear that Program Specialist 3 is at the supervisory level as it is assigned to the "R" ERG. The Program Specialist 4 title is a second-level supervisory title as it is assigned to the "S" ERG. Therefore, as the appellant did not supervise subordinate staff at the time of the classification review, Agency Services correctly determined that the appellant's position could not be classified by either of these titles. In this respect, the Commission notes that DAS should undertake an analysis of the Program Specialist 3 and Program Specialist 4 job specifications in order to make any necessary modifications in the verbiage regarding required supervision.

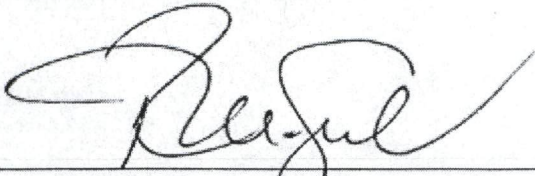
That said, the Program Specialist 2 is a lead worker title. A leadership role refers to those persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or a lower level than themselves and perform the same kind of work as that performed by the group being led. See *In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005). Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. It is not apparent that the appellant's position involves leadership over other Program Specialists on a consistent, daily basis. Accordingly, the record establishes that the proper classification of the appellant's title is Program Specialist 1 at the time of the audit. However, the Appointing Authority advises that the appellant has since been reassigned to a vacant Program Specialist 3 position in the Office of Vital Statistics and Registry. Therefore, no further action is required in this case.

ORDER

Therefore, the position of Shilda Worthy, in the OMMA, is properly classified as Program Specialist 1.

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
THE 13th DAY OF JULY, 2017



Robert M. Czedh, Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: Shilda Worthy
Joseph Hannon, Esq.,
Loreta Sepulveda
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, 2017

Shilda Worthy
19 Tall Tree Court
Ewing, New Jersey 08618

Re: Classification Appeal, Program Specialist 3 (R26); Position #: [REDACTED];
CPM Log #: 09160032; EID #: [REDACTED]

Dear Ms. Worthy:

This is to inform you and the New Jersey Department of Health of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted, as well as a phone audit conducted with you on December 28, 2016, and an interview with your supervisor, M. Carolyn Daniels, Executive Director (90617, M98), later that same day.

Issue:

You are appealing the current classification of your position (102739), Program Specialist 3 (64485, R26). You allege that your duties are not properly classified and that you are seeking to reclassify your position to that of Program Specialist 4 (64486, S29), which you feel more appropriately reflects your current duties and responsibilities.

Organization:

Your position is located in the Office of the Commissioner, Office of Population Health, Office of Minority and Multicultural Health (OMMH). The Office of Minority and Multicultural Health is committed to helping people in these diverse communities live longer, healthier lives in an effort to reduce and eventually eliminate health disparities in New Jersey. Population Health focuses on keeping healthy New Jerseyans well, preventing those at risk from getting sick, and keeping those with chronic conditions from getting sicker. Population Health promotes prevention, wellness and equity in all environments, resulting in a healthy New Jersey. Your position reports to M. Carolyn Daniels, Executive Director (90617, M98). The rest of your unit is composed of: one (1) Program Specialist 3, Bilingual in Spanish and English; one (1) Public Health Representative 1; and one (1) Secretarial Assistant 1. Your position does not have responsibility for the preparation and completion of performance evaluations, therefore your position does not have supervisory responsibilities.

New Jersey is an Equal Opportunity Employer

www.state.nj.us/csc

Review and Analysis:

Your position is currently classified as a Program Specialist 3 (64485, R26). The definition section of the specification for this specification title states:

“Under the general supervision of a Program Specialist 4 or other supervisory officer in a state department, institution or agency, or in a local jurisdiction, may directly supervise professional and/or technical staff engaged in program activities, or performs the more complex and sensitive professional, administrative and analytical work to promote the planning, operation, implementation, monitoring and evaluation of various programs and services administered by the Department of assignment; conducts the research and field work necessary to meet the needs of the appropriate state and/or local public or private agencies; does other related work.”

While your position performs at a high level and is engaged in the more complex work involved in the planning, operation, implementation, monitoring and evaluation of various Departmental health prevention programs, including those designed to control chronic diseases and their related services, the level of this position is determined by the amount of supervisory oversight assigned to the position. Your current title, Program Specialist 3 (64485, R26) is assigned to the “R” Bargaining Unit, and as such is considered to be a first-line supervisor. Incumbents holding titles assigned to the “R” bargaining unit must supervise lower-level staff, including having responsibility for the preparation and completion of performance evaluations. Your position does not supervise any lower-level staff. Therefore, this title is an inappropriate classification for your position.

You believe that your duties are consistent with the Program Specialist 4 (64486, S29). The definition section of the specification for this title states:

“Under the direction of a supervisory official in a State department or agency, supervises professional and/or technical staff engaged in program activities; performs the most difficult and sensitive professional, administrative and analytical work to promote the planning, operation, implementation, monitoring and/or evaluation of various programs and services administered by the Department of assignment; supervises and conducts the research and field work necessary to meet the needs of the appropriate state and/or local public or private agencies; does other related work.”

Your position has no supervisory responsibility. The Program Specialist 4 (64486, S29), is assigned to the “S” Bargaining Unit, and as such is considered to be second-line supervisor. Incumbents holding titles assigned to the “S” bargaining unit must supervise lower-level (first-line) supervisors. Under the current organizational structure of your unit your position does not supervise any lower-level (first-line) supervisors.

Aside from the Executive Director and her secretary, your unit is composed of three first-line supervisory positions, none of which has supervisory responsibilities. The fact that your position has no supervisory responsibility precludes a reclassification to the requested level of Program Specialist 4. Additionally, your classification appeal exposed your lack of supervisory responsibility in your current title, Program Specialist 3. The organizational structure of your unit does not support either of these titles. Since your position has no supervisory responsibilities, this title is an inappropriate classification for your position.

Therefore, the next lower in-series title, Program Specialist 2 (64483, P21) was examined for appropriateness. The definition section of the specification for this title states:

“Under the limited supervision of a Program Specialist 3 or 4, or other supervisory official in a state department, institution or agency, or in a local jurisdiction, takes the lead over professional and/or technical staff engaged in program activities; performs professional, administrative and analytical work to promote the planning, operation, implementation, monitoring and evaluation of various programs and services administered by the Department of assignment; conducts the research and field work necessary to meet the needs of the appropriate state and/or local public or private agencies; does other related work.”

A Program Specialist 2 typically functions as a team leader, providing guidance and taking the lead over professional and/or technical staff engaged in unit programs and activities; this would include work that is administrative and analytical in nature and may involve the administration, planning, operation, implementation, monitoring and evaluation of the various programs and services administered by the Department, or unit. A leadership role refers to those persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or a lower level than themselves. Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include responsibility for the preparation of performance evaluations. Your position does not function as a lead worker.

The definition section of the specification for the Program Specialist 1 (64482, P18) title states:

“Under the close supervision of a Program Specialist 3 or 4, or other supervisory official in a state department, institution or agency, assists in the professional, administrative and analytical work to promote the planning, operation, implementation, monitoring and/or evaluation of various programs and services administered by the Department of assignment; assists in conducting the research and field work necessary to meet the needs of the appropriate state and/or local public or private agencies; does other related work.”

Your position is involved in the planning, operation, implementation, monitoring and evaluation of various Departmental health prevention programs. Your position has no supervisory or lead worker responsibilities. Therefore, your duties fall within the scope of Program Specialist 1.

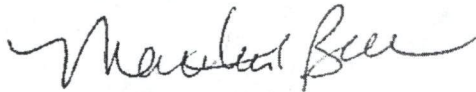
Determination:

By copy of this letter, the Appointing Authority is advised that the position will be reclassified to Program Specialist 1 (64482, P18) title effective May 13, 2017, unless the appointing authority assigns duties and responsibilities that are commensurate with the position's current title, Program Specialist 3 (64485, R26), within thirty days of receipt of this determination letter.

The class specification for this title 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.

An appeal of this decision may be filed within twenty (20) days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments that you wish considered should be submitted within the specified timeframe. Appeals should be addressed to the Written Records Appeal 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 determination being disputed and the basis for the appeal.

Sincerely,



Martha T. Bell,
Human Resource Consultant 5
Division of Agency Services

MTB/rwz

c: Loreta Sepulveda
Ann Kopczynski

