

reconciliation of Rowan University's Foundation bank accounts, that she is the only one that performs those duties. She states that she is the only Foundation Accountant, and she prepares the monthly investment reports which her supervisor reviews. Lastly, she indicates that none of the Professional Services Specialist 2, Administrative Services are lead workers as they have no supervisory responsibility.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for Professional Services Specialist 3, Administrative Services states:

Under the direction of a Professional Services Specialist 2 or higher supervisory officer in the Administrative Services area at a State college, is responsible for independently performing professional work of greater difficulty using established policies, procedures, precedents, and guidelines; does related work as required.

The definition section of the job specification for Professional Services Specialist 2, Administrative Services states:

Under the supervision of a higher administrative officer in the administrative services area at a State college, is responsible for independently performing professional work of considerable difficulty using established policies, procedures, precedents, and guidelines; takes the lead over lower level staff; does related work as required.

By way of background, after the enactment of P.L. 1986, c. 42, the Commission removed a number of classified titles not included in a bargaining unit from the State Classification Plan for use by the State Colleges. Thereafter, the Department of Higher Education established the State College Classification Plan (SCCP) to govern the classification of those positions that were removed from the provisions of the former Title 11. The SCCP was administered by the former Chancellor of Higher Education, through the Presidents of each of the State Colleges. In fact, a regulatory scheme governing the SCCP, *N.J.A.C.* 9-6A and 9:6, was in place between January 1988 and May 1996 that provided for the State Colleges to determine all matters concerning position classification for the positions that were removed from the auspices of Title 11. In other words, some positions in

State Colleges were subject to a classification review by the Commission (bargaining unit titles) and others to classification review procedures by the State Colleges (non-bargaining unit titles).

However, *In the Matter of Department of Higher Education Employees* (MSB, decided May 25, 1993), the former Merit System Board created many generic non-competitive titles for use by the Department of Higher Education as part of a settlement agreement to resolve a bargaining unit charge brought before the Public Employee Relations Commission by various unions. Specifically, that charge claimed that some of the titles created by the State Colleges after July 1986, i.e., the ones in accordance with *N.J.S.A.* 18A:64-21.2 that were no longer subject to the provisions of Title 11A, actually involved functions performed by career service titles that were formerly aligned, bargaining unit titles. Germane to the matter at hand, one of the title series that was created is Professional Services Specialist, Administrative Services. Accordingly, when these generic, non-competitive titles were created, they were assigned to an employee relations group in the appropriate bargaining unit. To that end, Professional Services Specialist 2 and 3, Administrative Services are in the “P” ERG (professional) and are subject to a classification review by the Commission.

Moreover, it is noted that Rowan University conducted its own review of the appellant’s position and provided her with a denial letter dated April 4, 2019. As stated in *In the Matter of Jillian Itri, Rowan University* (CSC, decided June 20, 2018), the Commission cleared up the matter of whether classification reviews should be performed by the State College appointing authority, and it explained that according to current law, the Commission reviews position classifications of State College employees in CWA bargaining unit titles. In this case, Rowan conducted its own classification review of the appellants position, and in its April 4, 2019 determination, indicated that she could appeal the determination to the Commission. Therefore, Rowan is reminded that this practice is not appropriate for CWA bargaining unit positions. Should an incumbent in the CWA bargaining unit position challenge the appropriateness of his/her position classification, Rowan must advise these employees that they are required to file a petition for classification review to Agency Services in compliance with *N.J.A.C.* 4A:3-3.9(c). Rowan is reminded that in the future its continuation of self-conducted classification reviews may result in the Commission ordering that fines be assessed for each violation, up to a maximum of ten thousand dollars (\$10,000.00). *See N.J.S.A.* 11A:10-3; *N.J.A.C.* 4A:10-2.1(a)2.

Next, while the appellant argues that other incumbent Professional Services Specialists 2, Administrative Services 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, 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, the definition of Professional Services Specialist 2, Administrative Services clearly indicates that this is a lead worker title, not a supervisory title.

Taking the lead is the distinguishing characteristic in considering whether a position should be classified at the requested 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. 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. Acting as a representative does not define a position as a lead worker, and being the sole person responsible for a given workload ensures that an incumbent is not a lead worker. Being a lead worker does not mean that work is performed only by one person, but involves mentoring others in work of the title series. The appellant does not have the responsibility of a lead worker and therefore, Professional Services Specialist 2, Administrative Services is not appropriate for this position. The appellant's position stands on its own and is classified based on the duties she performs. The duties performed by other individuals, whether properly or improperly classified, are irrelevant in determining the proper classification of the appellant's position.

In the matter at hand, the responsibilities of the position include: preparing monthly reconciliations, preparing monthly investment reports, reconciliation of Foundation bank accounts, maintaining records and filing, and serving as a primary liaison for transactional requests. Thus, the primary focus of the position is in the accounting field. In *Higher Education, supra*, the Board indicated that the generic, non-competitive titles, such as the appellant's, were established to avoid service disruptions, due to bumping, in the event of layoffs. Appendix A, point 2 referred in the decision states:

New positions not in a direct line of supervision to the State Colleges Unit created since July 1986 and presently in generic titles below Associate Director 2 which the parties agree are more appropriately included in one of the CWA units will be included in one of the CWA units in existing classified¹ competitive titles. If there is no appropriate existing classified competitive title for an affected position, then the position will be placed in a generic classified non-competitive title created by the Department of Personnel.²

¹ Now known as "career service" titles.

² Now known as the Civil Service Commission.

Therefore, the generic non-competitive title that the appellant seeks is not intended to be used where an existing career service competitive title would appropriately classify a position. In this regard, the Commission has a statutory obligation to classify titles, and appropriate existing career services competitive titles should first be considered to ensure that this agency's mandate that appointments to public service be made on the basis of merit and fitness on a competitive basis. In this case, there are no duties that the appellant performs that appear to fall outside of the scope of existing competitive titles. Therefore, based on the duties presented, it does not appear that the appellant's position is properly classified by either title.

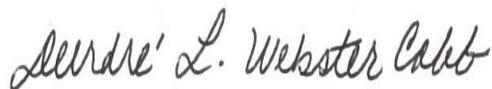
Therefore, Agency Services should re-review the classification of the appellant's position to determine if it would be more appropriately classified by a competitive title in the career service.

ORDER

Therefore, it is ordered that this appeal be denied, and that Agency Services review the classification of the position encumbered by Nikki LaBombard consistent with this decision.

This is the final administrative determination in this matter. Any further review is to be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 23rd DAY OF OCTOBER, 2019



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