

appellant's assigned duties and responsibilities were commensurate with the title of Management Specialist, a classification which is a demotion from the appellant's permanent title. Since the submission of the appellant's appeal, Agency Services indicates that the appointing authority has submitted new assigned duties which it believes is consistent with the title of Deputy Director of Welfare. These new duties are currently under review. On November 27, 2020, the appointing authority returned her to her permanent title, and on November 30, 2020 provisionally promoted her to Deputy Director of Welfare.

On appeal, the appellant argues that the appointing authority has the authority to make an appointment to the unclassified title Confidential Assistant, and to assign or reassign responsibilities as appropriate to ensure effective operations of DFAB. She states that in the past she managed between 90 and 110 employees as an Administrative Supervisor of Family Services. She states that she discontinued these tasks in July 2019 when she accepted an appointment as a Confidential Assistant, and for this reason, it is inappropriate to demote her from her permanent title. She also identifies a typographical error in Agency Services' determination, which has no material bearing on the issue at hand.

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 if 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 classification specification for Management Specialist states:

Under direction, assists the principal executive or administrative officer in the performance of managerial duties; does related work as required.

The definition section of the classification specification for Administrative Supervisor of Family Services states:

When Assigned to a County Welfare Agency:

Under the direction of a Director or other administrative officer, is responsible for the development and supervision of social service and income maintenance programs, does other related work.

When Assigned to an Employment and Training Agency:

Under the direction of a Director or other administrative officer, is responsible for the development and supervision of programs designed to assess the education and training needs of participants and provide referrals to appropriate work experience and training services; does other related work.

It is noted that the appellant does not provide further arguments for an Administrative Supervisor of Family Services classification other than to state that she held the title previously, and a demotion is inappropriate since the appointing authority is allowed to make an appointment to Confidential Assistant. In this regard, *N.J.S.A.* 11A:3-5 (Political subdivision unclassified service) provides for one secretary or Confidential Assistant to each unclassified department or division head. "Unclassified Service" means those positions and job titles outside of the senior executive service, not subject to the tenure provisions of Title 11A, New Jersey Statutes or the rules codified in Title 4A of the New Jersey Administrative Code unless otherwise specified. The Confidential Assistant is an unclassified title permitted for an incumbent that reports directly to the department or division head. No job specification for this title exists. An incumbent in an unclassified title holds that position by statute or other reason which makes it not practicable to determine merit and fitness for appointment in or promotion to that title by examination, and that it is not appropriate to make permanent appointments to the title.

While the department or division head has the flexibility to assign duties or issue orders as he or she sees fit, this does not countenance an unclassified position performing duties otherwise belonging to career service positions. *See In the Matter of Josephine Smith*, Docket Nos. A-2420-88T2 and A-1804-89T2 (App. Div. April 15, 1991); *In the Matter of Ellen Bloom*, Docket No. A-3562-86T8 (App. Div. January 28, 1988). In *Bloom*, the Court stated that while the Commission "has no authority to regulate what goes on in an unclassified position, its functions in enforcing the Civil Service Act must be liberally and broadly interpreted in order to allow it to properly bring public employees within its reach to effectuate its announced purpose." The Court confirmed that to allow a local appointing authority unregulated discretion regarding unclassified positions "would be to render unsupervised the ability of subordinate governmental units to place a job position into an unclassified position and with impunity, frustrate the constitutional mandate that persons compete to gain positions properly classified as subject to the civil service system." *See also, State Dept. of Civil Service v. Clark*, 15 *N.J.* 334, 341 (1954); *Bowser v. State Dept. of Civil Service of N.J.*, 108 *N.J. Super.* 132 (App. Div. 1970); *Follari v. State Dept. of Civil Service*, 102 *N.J. Super.* 598 (App. Div. 1968).

In this case, the appellant supervises the activities of three units, DMIS, IT and OES, which includes 15 clerical employees, three programmers, four technicians and a Family Service Worker. She spends a third of her time with each

unit and has full supervisory duties and responsibilities, but as required, will assist the Division Director with planning and organizing programs for the Division. These are clearly not the duties of a Confidential Assistant, and the appellant's arguments in that regard are misplaced. While the department or division head has the authority over the department or division, the Confidential Assistant does not. He or she is privy to critical policy making decisions with access and exposure to the executive: however, he or she should not be performing the duties of an executive, as his or her function is to *assist the department or division head* with confidential issues. The Confidential Assistant is not entitled to make decisions as an executive, and should not be performing the actual work pertaining to the department.

On the other hand, a Management Specialist assists the executive in the performance of managerial duties, and is a supervisory title. 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; reviews programs and activities and evaluates administration, objectives, efficiency, effectiveness, and suitability to current conditions, costs, and accomplishments; appraises adequacy and efficiency of operating systems; analyzes and resolves problems; assists the principal executive or administrative officer in the performance of varied functions which may include policy planning, budget preparation, finance administration, personnel, management, job training, systems operations, public relations, purchasing, and administrative research; investigates complaints; and performs other work of the unit. These duties more accurately reflect those of the appellant, as she primarily performs the work of the unit, and has given no indication of confidential duties.

The appellant has not provided specific arguments as to why the Administrative Supervisor of Family Services title is more appropriate. When Assigned to a County Welfare Agency, this incumbent is responsible for the development and supervision of social service and income maintenance programs. The DIMS unit is responsible for scanning files. The IT unit performs technological functions, troubleshoots programs, and performs maintenance on equipment. The OES manages personnel transactions, liaises with administration, and ensures compliance with human resource rules and policies. None of these units are responsible for social service and income maintenance programs. This is clearly not a better fit for the duties than the classification of Management Specialist.

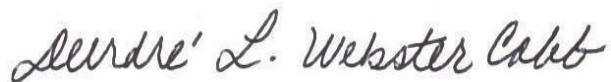
Accordingly, a thorough review of the entire record fails to establish that the appellant has presented a sufficient basis to warrant an Administrative Supervisor of Family Services classification of her position.

ORDER

Therefore, the position of Valentina Green is properly classified as Management Specialist.

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 7TH DAY OF APRIL, 2021



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