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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Viergina Dudley,
Essex County

Classification Appeal

CSC Docket No. 2015-2106

ISSUED: **SEP 04 2015** (SLK)

Viergina Dudley appeals the attached decision of the Division of Classification and Personnel Management¹ (CPM) that the proper classification of her position with Essex County is Senior Counselor, Penal Institution. The appellant seeks a Director of Social Work Services classification.

The record in the present matter establishes that the appellant's permanent title is Data Processing Programming in the Department of Public Safety and Corrections, Essex County Correctional Facility. The appellant initially sought a reclassification of her position, alleging that her duties were more closely aligned with the duties of a Supervisor of Social Service. It is noted that Supervisor of Social Service is not a Civil Service title. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties she performed as a Data Processing Programmer. CPM reviewed and analyzed the PCQ completed by the appellant. On November 14, 2014, CPM conducted a telephone audit with the appellant and her supervisor. In its decision, CPM determined that the duties performed by the appellant were consistent with the definition and examples of work included in the job specification for Senior Counselor, Penal Institution, with an effective date of June 28, 2014. Specifically, it noted that the appellant's primary duties were the assignment and review of the work of the Social Service staff.

On appeal, the appellant states that she has been employed by the Essex County Correctional Facility in the Social Service Department since 2007. The

¹ Now, the Division of Agency Services.

appellant indicates that she was initially hired to be an Ombudsman and has never performed the duties of a Data Processing Programmer. The appellant asserts that, in 2010, the administration appointed her to head the Social Service Department, and she is presented to inspectors as being the Ombudsman, Social Worker and Supervisor of the Social Service Department for compliance and accreditation purposes. She claims that the previous supervisor of the Social Service Department was given a supervisory title and it is unfair that she has not had a title or salary change since 2010 even though she performs all of the same duties. In this regard, the appellant represents that she is in charge of the Social Service Department's daily operations including supervising employees and she assists other departments to provide care for special populations. The appellant states that she coordinates meetings with other agencies as it relates to the correctional facility and she coordinates training for internal staff. The appellant indicates that she has been appointed as the Librarian, Grievance Coordinator, Program Coordinator for all social service activities, and the Sexual Assault Advocate. The appellant also describes that she is in charge of the G.E.D. program, Life Skills Program for the immigration population, and the Parent and their Children Program. She maintains that she also assists in special, complex situations such as grief counseling and assisting sexual assault victims. She asserts that the skills to perform those duties are much greater than those required for a Senior Counselor, Penal Institution and that her duties require her to have empathy, relationship building skills, communication skills, leadership skills, take initiative, and have an excellent work ethic. The appellant provides that she must follow the Social Work Code of Ethics in addition to the correctional facility's policies and procedures. She also highlights that she possesses a Master's Degree and is a Licensed Social Worker. Additionally, the appellant argues that, while some of the above-noted duties are related to the title of Senior Counselor, Penal Institution, the title of Director of Social Work Services is a more appropriate title as she plans, coordinates, and directs all social work programs at the Essex County Correctional Facility.

In reply, The Division of Agency Services (Agency Services) states that an incumbent in the position of Director of Social Work Services is intended to plan, organize, develop, and direct all social work services and supervise the social work services' staff. It provides that the Director of Social Work Services also supervises individual programs of social work services, represents social work services at agency or local jurisdiction administrative staff meetings, and prepares statistical and other reports for superiors. Agency Services indicates that the Director of Social Work Services informs staff on agency and local jurisdiction policy and modifies operating procedures. It presents that a Director of Social Work Services classification is intended for positions that are responsible for all social work programs within a local jurisdiction or agency. Agency Services provides that the appellant is responsible for overseeing programs geared towards preparing inmates in the area of life skills and a return to society upon release. As such, Agency

Services asserts that the appellant is not in charge of social work programs for all of Essex County. Agency Services maintains that it considered other supervisory titles when performing the appellant's classification review; however, since the appellant does not sign performance reviews as the "Evaluating Supervisor," these other titles were determined to be inappropriate.

CONCLUSION

The definition section of the job specification Senior Counselor, Penal Institution states:

Under direction, takes the lead over other counselors in interviewing and counseling prisoners detained in county jails to assist them with personal problems; refers inmates to other agencies and cooperates with such agencies to prepare inmates to return to society; does other related duties as required.

The definition section of the job specification for Director of Social Work Services states:

Under direction, plans, develops, organizes, administers, coordinates, and directs all social work services programs and activities for an agency or local jurisdiction in accord with accepted professional social work practices; does other related duties as required.

The Commission agrees with Agency Services' determination that the appellant's position is properly classified as Senior Counselor, Penal Institution. According to the job specification definition, a Director of Social Work Services directs all social work services programs and activities for an *agency or local jurisdiction*. The appellant's responsibilities are limited to providing services in the Essex County Correctional Facility and not for Essex County in its entirety. Further, in reviewing the appellant's PCQ, her primary duties involve counseling inmates, preparing inmates to return to society, and referring inmates to external agencies and contacts. These duties are consistent with a Senior Counselor, Penal Institution classification.

The appellant argues that she has been performing social services work since 2007 including taking over the duties of the prior supervisor of the Social Service Department since 2010, that she has a Master's degree and is a Licensed Social Worker, that she has been given responsibility over many areas, and that her skills exceed those of a Senior Counselor, Penal Institution. However, how well or efficiently an employee does his or her job, length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees are classified. See *In the Matter of Debra DiCello* (CSC,

decided June 24, 2009). Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized.

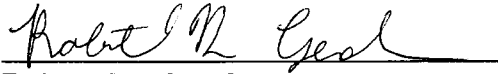
The appellant also asserts that the individual that she replaced had a supervisory title and that it is unfair that she has not been given a new title or salary increase since 2010. However, a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. See *In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). See also, *In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A-5011-96T1 (App. Div. October 3, 1998). Further, the outcome of position classification is not to provide a career path to the incumbent, but rather to ensure the position was classified in the most appropriate title available within the State's classification plan. See *In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005). Additionally, since the appellant assigns and reviews work, but does not have the responsibility for signing performance evaluations, the appellant is acting as a lead worker and not a supervisor. Leading lower level staff is not equivalent to supervisory duties, which involve not only being in a leadership position, but responsibility for overseeing the work of other staff, and composing and administering formal performance reviews for subordinates. Training and ensuring that assigned tasks are completed efficiently would only be considered part of supervisory functions and more consistent with that of a lead worker. See *In the Matter of Phillip Beesley, et al.* (MSB, decided March 27, 2001) and *In the Matter of Vincent Gimmelli* (MSB, decided June 9, 2004). Performance evaluation authority is a reasonable standard because it is the means by which it can be demonstrated that a supervisor can exercise his or her authority to recommend hiring, firing, and disciplining of subordinate employees. Simply stated, the actual authority and exercise of performance evaluation of subordinate staff is what makes a supervisor a supervisor. See *In the Matter of Alexander Borovskis, et al.* (MSB, decided July 27, 2005)

ORDER

Therefore, the Civil Service Commission concludes that the position of Viergina Dudley is properly classified as a Senior Counselor, Penal Institution.

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 2nd DAY OF SEPTEMBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
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Attachment

c: Viergina Dudley
Alan Abramowitz
Kenneth Connolly
Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

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Robert M. Czech
Chair/Chief Executive Officer

December 24, 2014

Mr. Alan Abramowitz, Director



RE: Classification Appeal – Vierginia Dudley, Essex County, Department of Public Safety and Corrections, Log # 05140079

Dear Mr. Abramowitz:

This is to inform you of our determination concerning the classification evaluation of the position occupied by Vierginia Dudley in the Department of Public Safety and Corrections. This determination was based upon a thorough review and analysis of a position classification questionnaire submitted and a telephone audit with Ms. Dudley and her immediate supervisor, Roy L Hendricks, Warden, Essex County Correctional Facility was conducted on November 14, 2014.

ISSUE:

Ms. Dudley is currently in the noncompetitive title of Data Processing Programmer effective, January 16, 2007. Ms. Dudley has referenced in her letter that the title of Data Processing Programmer is an improper classification of her duties and responsibilities and is requesting the Civil Service Commission perform a desk audit on her position.

ORGANIZATION:

Ms. Dudley is currently assigned to the Essex County Department of Public Safety and Corrections, Correctional Facility. She reports directly to Roy L. Hendricks, the Warden of the Essex County Correctional Facility. The position assigns and reviews completed work of social service staff.

FINDINGS OF FACT:

According to the position questionnaire submitted, the following duties and responsibilities are assigned to the position:

Assisting the inmate population in discharge planning and counseling

- Assist in having the inmate population admitted to rehabilitative programs; getting inmates linked with other agencies to receive assistance with housing, employment, social security and various other services such as contact with attorneys, parole, probation and other judicial entities needed; identifying inmates/detainees suffering from co-occurring disorders and making appropriate referrals to medical and mental health services.
- Providing individual counseling as needed to inmates; providing family members with the resources to assist with incarcerated relatives.

Facilitating and Coordinating Social Service Programs

- In charge of coordinating and facilitating social service programs such as G.E.D, Life Skills, support groups, parent and child programs. Creating and developing other recreational/leisure programs to engage the inmate/detainee population; coordinating with public libraries to maintain law/legal information and books; recruiting volunteers and facilitating programs and services to be given to inmate population at correctional facility.

Administrative duties

- Assigns work and develops a systematic program to maintain records and files of social service activities; provide direction and assign duties to social service staff and assure all protocols of the social service department are adhere to. Assists and takes the lead over the work performed by social service staff as needed, and as it relates to the functions and duties of the department.
- Responsible for assisting the staff in advice and instruction; implementing different protocols and procedures as it relates to social services; make recommendations and suggestions to enhance services to the inmate/detainee population.

REVIEW AND ANALYSIS:

The definition section of the specification for the title of **Data Processing Programmer (01474)** states the following:

“Under direction, does the design and preparation of the less complex computer programs for electronic data processing equipment utilizing required and current software, operating systems, and multiprogramming technology.”

The position currently performs duties and responsibilities that are not consistent with the title of Data Processing Programmer in that the incumbent's primary duties are not designing and preparing computer programs for electronic data processing equipment.

The definition section of the title, **Senior Counselor, Penal Institution (03278)**, states the following:

“Under direction, takes the lead over other counselors in interviewing and counseling prisoners detained in county jails to assist them with personal problems; refers inmates to other agencies and cooperates with such agencies to prepare inmates to return to society.”

A review of the employee's primary job duties and responsibilities indicates that they involve those functions and tasks that are indicative of the duties of a Senior Counselor Penal Institution. The position provides counseling and advice to inmates in assisting them in preparing for their release; counseling inmates with their personal problems and giving advice; referring inmates to other agencies for further guidance; aiding inmates with admission to rehabilitative programs; providing linkage to inmates/detainees to other agencies for assistance with services such as housing employment, mental health and medical services; coordinating services and meetings with outside agencies regarding programs for inmates/detainees; creating and developing social and recreational programs for inmates/detainees to be engaged while incarcerated; aiding inmates in a variety of services to prepare them to obtain employment and enrolling in various training programs. The position takes the lead over other social services unit and provides other social service staff members with guidance and direction, assigning duties in handling of assignments, assuring all protocols of the social service unit are adhered to, evaluating the work performed and providing recommendations to enhance services of the inmate population.

DETERMINATION:

As a result of this review, it has been determined that the duties being performed by **Viernia Dudley** are commensurate with the job specification for the title, **Senior Counselor Penal Institution (03278)**. This specification is descriptive of the general nature and scope of the functions that may be performed by an incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of related tasks not specifically listed. The relevancy of such specific tasks is determined by an overall evaluation of their relationship to the general classification factors listed in the specification.

Viernia Dudley will be considered to be serving provisionally pending open competitive and certification procedures in the title of Senior Counselor, Penal Institution (03278) with an effective date of June 28, 2014.

The noncompetitive title of Data Processing Programmer (01474) is not related for promotional purposes to the competitive title of Senior Counselor, Penal Institution.

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 Commissioner 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 application rules.

Please be aware that an incumbent's eligibility in meeting specification requirements is not the same as properly classifying the duties of a position. It is the responsibility of the Appointing Authority to ensure an incumbent meets the eligibility requirements prior to any appointment to the title.

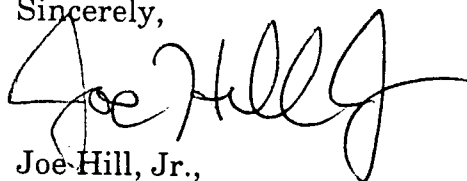
Please be advised that in accordance with N.J.A.C.:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to Written Record Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note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

Mr. Alan Abramowitz, Director
December 24, 2014

Page 5

well as written documentation and/or argument substantiating the portions of the documentation being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Hill, Jr.", written in a cursive style.

Joe Hill, Jr.,
Assistant Director

JH/MSK/cp

C: Virginia Dudley
Susan Cardone
Carmen Peer
Records Unit
Team Files