

B-22



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Thomas Fitzgerald,  
Office of Information Technology

Classification Appeal

CSC Docket No. 2014-2494

ISSUED: **JUL 17 2014** (SLK)

Thomas Fitzgerald appeals the attached decision of the Division of Classification and Personnel Management (CPM) that the proper classification of his position with the Office of Information Technology (OIT) is Software Development Specialist 2. The appellant seeks a classification of Software Development Specialist 3.

The record in the present matter establishes that the appellant's permanent title is Software Development Specialist 2.<sup>1</sup> He is assigned to the Enterprise Data Services unit of the OIT and reported to Vicki Fallon, Manager 2, Information Processing, as of the date he submitted his Position Classification Questionnaire (PCQ). The appellant sought a reclassification of his position, alleging that his duties are more closely aligned with the duties of a Software Development Specialist 3. In support of his request, the appellant submitted a PCQ detailing the different duties he performs as a Software Development Specialist 2. CPM reviewed and analyzed the PCQ completed by the appellant as well as supplemental information including an organization chart and his most recent Performance Evaluation System (PES). On February 25, 2014, CPM conducted a desk audit. 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 Software Development Specialist 2.

<sup>1</sup> Personnel records indicate that the appellant was provisionally appointed to Software Development Specialist 3 on June 14, 2014.

On appeal, the appellant states that contrary to CPM's determination letter, he does prepare performance evaluations. However, due to OIT's policy, he is not permitted to sign them because of his current title classification. He asserts that he formally and informally prepares performance evaluations and submits them to management for approval. He also refutes CPM's statement that he does not sign time and leave requests. He also presents that on the Civil Service Commission's (Commission) website, the definition of a Performance Assessment Review (PAR) rater is the immediate supervisor of the ratee. The person assigns and/or reviews work. Therefore, he argues that he is the PAR rater for three employees in which two are in the Software Development Specialist 2 title and it is only due to the OIT policy that he is not permitted to sign the PARs that he prepares. He highlights that he supervises 90% of the work performed by the three employees he supervises and he reviews 100% percent of their work. He maintains that the main difference between a Software Development Specialist 3 and Software Development Specialist 2 is that the Software Development Specialist 3 supervises staff while the Software Development Specialist 2 leads and serves as technical/mentor coach, and he claims that since he supervises staff, his duties fit directly in the Software Development Specialist 3 definition.

### CONCLUSION

The definition section of the job specification Software Development Specialist 2 states:

Under limited supervision, performs analysis, consulting, design, programming, maintenance, and/or support work on software for State or Local government Information Technology services; participates in the resolution of complex problems through consultation with higher-level technical staff; may coordinate projects and serve as a technical mentor/coach to lower level staff; does other related duties.

The definition section of the job specification Software Development Specialist 3 states:

Under general supervision, performs analysis, consulting, design, programming, maintenance, and support work on software for State and Local government IT services; coordinates and supervises work activities of lower level Software Development Specialists; does other related duties.

The Commission agrees with CPM's determination that the appellant's position is properly classified as Software Development Specialist 2. In reviewing the Software Development Specialist 3 job specification definition, an incumbent in the title coordinates and supervises work activities. Further, the Software Development Specialist 3 title is classified as an "R", or primary level supervisory

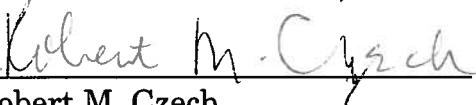
title. As indicated on Mr. Fitzgerald's PCQ, the appellant is not responsible for the preparation of performance evaluations and therefore he is not considered a supervisor for classification purposes. Further, the Commission notes that the appellant's PCQ indicates that he only "occasionally" and not "regularly" supervises other employees. In order for the appellant to be considered a supervisor, supervisory responsibilities must be his primary full-time focus. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004). The appellant argues that he does everything a supervisor does, including assigning work, signing time and leave requests, reviewing work, and preparing performance evaluations for staff in the same or lower classification title as him except that he is not allowed to sign off on the performance evaluations per OIT policy. However, even if this is the case, the one who signs the performance evaluation is ultimately the one who has the responsibility and accountability of recommending hiring, firing, and disciplining subordinate employees and therefore, as stated above, the signing of the performance evaluation is what makes a supervisor a supervisor. *See In the Matter of Robert E. Swanwick*, Docket No. A-1103-03T3 (App. Div. February 8, 2005) (Employee found to be properly classified as a Senior Building Maintenance Worker, *not* an Assistant Supervisor, Building Service, where he had no supervisory authority over contractual janitorial personnel and his completion of employee progress reports was subject to the review and signature of his immediate supervisor). Instead, what the appellant describes are lead worker responsibilities. An incumbent in a leadership role refers to 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 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).

### ORDER

Therefore, the Civil Service Commission concludes that the position of Thomas Fitzgerald is properly classified as a Software Development Specialist 2.

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 16<sup>th</sup> DAY OF JULY, 2014



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
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: Thomas Fitzgerald  
Sharon Pagano  
Kenneth Connolly  
Joseph Gambino



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

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

March 17, 2014

Mr. Thomas Fitzgerald  
New Jersey Office of Information Technology  
300 Riverview Plaza – PO Box 212  
Trenton, New Jersey 08625-0212

Re: **Classification Appeal – Thomas Fitzgerald**  
CPM Log #09130311; [REDACTED]

Dear Mr. Fitzgerald:

This is to inform you and the Office of Information Technology of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted, including a position classification questionnaire (DPF-44S), telephone audit conducted on February 25, 2014, supplemental information, an organization chart, and your most recent Performance Evaluation System (PES) agreement.

**Issue:**

You are appealing the current classification of your position Software Development Specialist 2 (10236/P26). You allege that your duties are not appropriately classified and that you are seeking to reclassify your position to Software Development Specialist 3 (10235/R29).

**Organization:**

Your position is located in the Enterprise Data Services unit of the New Jersey Office of Information Technology, and, as of the date of the submitted DPF-44, reported to Vicki Fallon, Manager 2, Information Processing (64777/M34)

**Finding of Fact:**

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

- Meeting with state agencies to analyze, define and document business needs
- Analyzing, designing, developing, testing and implementing new software to meet client needs
- Solving complex technical problems
- Leading a support staff of two employees and two consultants

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**Review and Analysis:**

Your position is currently classified in the title Software Development Specialist 2 (10236/P26). The definition section of the specification for this title states:

Under limited supervision, performs analysis, consulting, design, programming, maintenance, and/or support work on software in support of state and local government IT services. Complex problems are resolved through consulting with a higher-level technical staff. May lead and serve as technical mentor/coach to lower level staff; does other related duties.

The Software Development Specialist title series was created in 2004 to combine the functions previously classified by the Data Processing Programmer and Data Processing Analyst title series, as these functions are performed simultaneously in the modern application development process. The experience requirement for Software Development Specialist stipulates that incumbents have experience in programming, system analysis, or computer analysis. Software Development Specialist 2 is the intermediate level in the series. Incumbents at level two may take the lead and serve as a technical mentor/coach to lower level staff.

The definition section of the requested title, Software Development Specialist 3 (10235/R29), states:

Under general supervision, performs analysis, consulting, design, programming, maintenance, and support work on software for State and Local government IT services; coordinates and supervises work activities of lower level Software Development Specialists; does other related duties.

Software Development Specialist 3 is the highest level in the title series<sup>1</sup>. The Software Development Specialist 3 title requires that an incumbent "coordinates and supervises." Since Software Development Specialist 3 is assigned to the Primary Level Supervisors'—CWA ("R") bargaining unit, supervisory work must be the primary focus of the assigned duties.

The audit findings reveal that you work in a software development unit and have program design and software analysis responsibilities. To that effect, your duties include developing/implementing software design, analyzing/documenting requirements, coding, testing, and resolving software problems.

You indicated that you regularly assume supervisory duties including assigning and reviewing work of other employees though you do not prepare performance evaluations nor do you approve time and leave requests. The completion and signing of performance evaluations are the

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<sup>1</sup> Software Development Specialist 4 (10234/P31) was abolished in a title consolidation action, effective February 25, 2012.

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defining roles of a supervisory level title and without doing so an employee cannot be assumed to be supervising.

While some of your duties may compare favorably with the definition and examples of work for Software Development Specialist 3, none of the duties presented are considered out-of-title for a Software Development Specialist 2.

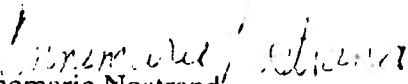
**Determination:**

Based upon the findings of fact cited above, it has been determined that the assigned duties and responsibilities of this position are commensurate with your permanent title, Software Development Specialist 2.

The 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.

If you wish to appeal this decision, you may do so within twenty 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 along with a copy of this determination letter. Appeals should be addressed to the Written Records Appeal Unit, Division of Appeals and Regulatory Affairs, NJ Civil Service Commission, P.O. Box 312, Trenton, New Jersey 08625-0312.

Sincerely,

  
Annemarie Nostrand  
Team Leader

AN/JKIII  
C: Sharon Pagano, Chief of Staff, OIT  
CPM Log #09130311