

B-24



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Alfonso Renna,  
Department of Children and Families

CSC Docket No. 2014-2492

Classification Appeal

ISSUED: JUL 17 2014 (SLK)

Alfonso Renna appeals the attached determination of the Division of Classification and Personnel Management (CPM) that his position with the Department of Children and Families was properly classified as an Investigator 2, Child Protection. The appellant seeks an Investigator 1 classification in this proceeding.

By way of background, the appellant applied for the promotional examination for Investigator 3, Child Protection (PS6385K), Department of Children and Families. As of the January 22, 2013 closing date, the appellant's permanent title was Investigator 1 (class code 25). As the examination was only open to employees serving in the Investigator 2, Child Protection (class code 25) title, the Division of Selection Services (Selection Services) determined that the appellant was ineligible. The appellant appealed the matter of his ineligibility to the Civil Service Commission (Commission), arguing that the Investigator 1 and the Investigator 2, Child Protection titles are analogous and that he was performing the same duties as an Investigator 2, Child Protection. The Commission (Commission) determined that the Investigator 1 and Investigator 2, Child Protection titles were not analogous and the appellant was correctly deemed ineligible for the examination because he was not serving in the announced title scope. However, the Commission noted that the appellant's submission suggested that he may be performing out-of-title work. Accordingly, the Commission ordered CPM to conduct a classification review of the appellant's position. See *In the Matter of Matt Butcher, et al., Investigator 3, Child Protection (PS6385K), Department of Children and Families* (CSC, decided December 4, 2013).

Thereafter, CPM, conducted a classification review of the appellant's position. In compliance with the Commission's determination, the appellant completed a Position Classification Questionnaire (PCQ) detailing all of the duties he performs as an Investigator 1. CPM reviewed the PCQ, the appellant's statements, his supervisor statements, his program manager's statements, and the appointing authority's statements, and determined that the appropriate classification of his position was Investigator 2, Child Protection effective April 5, 2014.<sup>1</sup>

On appeal, the appellant presents that he never requested that his position be reclassified to Investigator 2, Child Protection. Instead, he explains that he initially filed an appeal to afford him the opportunity to take the promotional examination for Investigator 3, Child Protection (PS6385K). However, a desk audit was ordered which resulted in his position being reclassified to Investigator 2, Child Protection. The appellant claims that the reclassification has resulted in him being demoted to a title that has an annual salary \$952.64 lower than Investigator 1. Further, he states that he has lost his seniority as an Investigator 1, a title in which he was permanent since 2002. Additionally, he now has to complete a working test period and is only considered to be provisionally serving as an Investigator 2, Child Protection. Further, on October 23, 2012, the appellant states that the head of his unit offered him the title of Investigator 2, Child Protection, but he rejected it. Therefore, he is requesting that the Commission no longer pursue the reclassification of his position as it has resulted in a huge set-back to his 37 year career of unblemished State service.

The appellant also asks if there are any other options for him, as he claims that there are others employees in his unit who hold the Investigator 1 title, but he has the most seniority as an Investigator 1 in his unit. The appellant highlights that as a result of the reclassification of his position, he is no longer represented by the Communications Workers of America as his new title is not within its scope of covered titles. He also states that he has been advised that he risks the chance of getting bumped out of the Investigator 2, Child Protection title as he will not complete the qualifying examination application process.

In a supplemental submission, the appellant states that he contacted the appointing authority about assigning him duties commensurate with his permanent title of Investigator 1 title, but he has not received a response. He also notes that there are at least 10 other staff member in his unit who are still serving in the Investigator 1 title.

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<sup>1</sup> CPM's determination letter incorrectly stated that the appellant was appealing his current permanent title of Investigator 1 and that he believed that the appropriate classification of his position was Investigator 2, Child Protection. In actuality, it was the Commission who ordered CPM to review the classification of the appellant's position and the appellant is now asking to be classified as Investigator 1 and not Investigator 2, Child Protection.

## CONCLUSION

*N.J.A.C.* 4A:3-3.5(c) states that within 30 days of receipt of a reclassification determination, 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.

In the instant matter, the appellant argued in *Butcher, et al., supra*, that he was performing the duties of an Investigator 2, Child Protection and therefore should have been eligible for the promotional examination Investigator 3, Child Protection (PS6385K). Since the appellant's title was Investigator 1, the Commission ordered CPM to review the classification of the appellant's position as he appeared to be performing out-of-title work. In compliance with the Commission's decision, CPM conducted a classification review and determined that the appellant position should be classified as Investigator 2, Child Protection. Although the appellant argues that he never requested that the classification of his position be reviewed, this agency has the responsibility to ensure that all positions in State service are properly classified. Thus, since the appellant's eligibility appeal provided significant evidence that his position may be misclassified, CPM was directed to review the duties of the position in order to ensure that it was properly classified. Therefore, the appellant should complete his application in support of the qualifying examination process.

In his appeal submissions, the appellant does not dispute that he is performing the duties of an Investigator 2, Child Protection. Instead, he argues that the reclassification of his position is unfair as it has resulted in a pay decrease, a provisional appointment pending qualifying examination procedures, his having to complete a working test period as an Investigator 2, Child Protection, and a loss of union representation. In this case, the Investigator 1 and the Investigator 2, Child Protection titles are both assigned class code 25. *N.J.A.C.* 4A:1-1.2 defines a demotion as a reduction in class code. Thus, since the reclassification of the appellant's position was to another title assigned class code 25, he was not demoted. Rather, the two titles are assigned to different employee relations groups which have different negotiated salary scales. With respect to his other concerns, there is no vested right to a particular classification since career service positions are at all times subject to the broad reclassification powers of this agency. See *Carls v. Civil Service Commission*, 17 *N.J.* 215 (1955). Moreover, the appointing authority opted to exercise its right in accordance with *N.J.A.C.* 4A:3-3.5(c)(1) to effect the required change in the classification of the appellant's position consistent with CPM's determination.

With respect to his argument that other unnamed individuals in his work unit still hold the Investigator 1 title, 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*, Docket No. A-5011-96T1 (App. Div. October 3, 1998); *In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). In this regard, the appellant has not provided any evidence that other employees in his unit who serve as an Investigator 1 are misclassified. Indeed, the appellant's appeal submission suggests that the appointing authority might have been aware that his position was misclassified in October 2013 when it offered to laterally change his title to Investigator 2, Child Protection. Moreover, the outcome of a position classification is not to provide a career path to the incumbent, but rather to ensure that 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). Accordingly, the Commission finds that the appellant's position is properly classified as an Investigator 2, Child Protection.

However, in light of the appellant's initial claim that he was performing the duties of an Investigator 2, Child Protection as of the closing date for the promotional examination for Investigator 3, Child Protection (PS6385K), along with the fact that CPM has substantiated his claim that he was performing duties consistent with an Investigator 2, Child Protection classification, equitable relief is warranted in this case. Therefore, appellant should be admitted to the promotional examination for Investigator 3, Child Protection (PS6385K). It is noted that this remedy is limited to the particular circumstances of this matter and does not set a precedent in any other matter.

### ORDER

Therefore, the Civil Service Commission concludes that the position of Alfonso Renna is properly classified as an Investigator 2, Child Protection. Furthermore, Mr. Renna is also ordered to complete his application for the qualifying examination for Investigator 2, Child Protection within 30 days of the date of this decision. Additionally, it is ordered that Mr. Renna be admitted to the promotional examination for Investigator 3, Child Protection (PS6385K), scheduled for a make-up examination, and if he achieves a passing score, his name should be added to the eligible list for prospective employment opportunities only.

This is the final administrative action in the matter. Any further review should 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  
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Attachment

c: Alfonso Renna  
Linda Dobron  
Dan Hill  
Kenneth Connolly  
Joseph Gambino



Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

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

March 24, 2014

Amended Letter

Alfonso Renna

**Re: Classification Appeal, Investigator 1**

CPM log # 03140174 [REDACTED]

Dear Mr. Renna:

This is in response to a classification appeal, received on March 11, 2014, submitted to this office, on your behalf, by Linda M. Dobron, Director, Office of Human Resources. The package indicates that you are appealing your current permanent title of Investigator 1 and that you believe the appropriate classification of your position is Investigator 2, Child Protection. Your position is located in the Department of Children and Families.

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44); your statements; and the statements of your supervisor, program manager, and the appointing authority. Based on the written record and that the aforementioned parties are in agreement with the stated duties, it is our determination that the appropriate classification of your position is Investigator 2, Child Protection. This action shall be effective April 5, 2014.

This classification determination does not imply that you will meet the eligibility requirements of the title. It is the responsibility of the appointing authority to ensure that an incumbent meets the eligibility requirements prior to any appointment.

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 [Commission] 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 applicable rules."

Alfonso Renna  
March 24, 2014

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Within 30 days of receipt of this letter, we will implement reclassification procedures to reclassify this position to the title Investigator 2, Child Protection, pending promotional examination procedures unless we are advised by the appointing authority that duties and responsibilities commensurate with your permanent title will be assigned.

Please be advised that in accordance with *N.J.A.C. 4A:3-3.9*, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records 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 written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

  
Annemarie Nostrand/Team Leader

TR  
c: L. Dobron  
Records  
Log #03140174