

reclassified as Forensic Scientist 2. Additionally, the appointing authority contacted this agency in November 2010 and requested that the job specification for Forensic Scientist 2 be revised in order to more clearly distinguish what constitutes complex cases, which would be inappropriate for an incumbent in the Forensic Scientist 1 title. Accordingly, the job specification was revised effective January 15, 2011. As a result of this revision to the job specification, the appointing authority removed the complex duties that the appellant had been assigned.²

On appeal, the appellant maintains that Forensic Scientist 2 is the appropriate classification of her position. Specifically, the appellant asserts that she is regularly assigned to complete complex and complicated work on an out-of-title basis that is usually performed by employees serving as a Forensic Scientist 2. In this regard, her duties include examining drugs in food matrices and foreign pills, and reviewing multiple suspects/sources of crime scenes. The appellant adds that her Director signed the PCQ and agreed that she works on more complex cases. Further, the appellant argues that she is responsible for training employees, conducting quality control checks, and reviewing reports of peers which are consistent with the job specification for Forensic Scientist 2. The appellant adds that such work has been assigned to her from September 5, 2013 to March 21, 2014. Moreover, the appointing authority notified the appellant that the out-of-title duties would be reassigned effective March 21, 2014

In response, Agency Services maintains that the classification determination is correct and the appropriate classification for the appellant's position is Forensic Scientist 1. Further, the appointing authority confirms that it has reassigned any out-of-title duties the appellant was performing.

CONCLUSION

The definition section of the job specification for Forensic Scientist 2 states:

Under the general direction of a Forensic Scientist 3 in the Department of Law and Public Safety, conducts the more difficult and specialized work involved in the chemical analysis of various matter, substances, specimens, and materials submitted to the laboratory by law enforcement agencies and Medical Examiners Offices for identification in connection with criminal investigations and prosecutions; may supervise or provide guidance to Forensic Scientist 1, Chemists, Laboratory Technicians, or other laboratory personnel; may function as a Laboratory Information

² Official personnel records indicate that the appointing authority compensated the appellant for the out-of-title duties that she performed as a Forensic Scientist 2 from July 17, 2010 through March 25, 2011.

Management System (LIMS) Coordinator, Laboratory Safety Representative/ Coordinator, or Quality Assurance (QA) Coordinator of a discipline; performs related field and laboratory work as required.

The definition section of the job specification for Forensic Scientist 1 states:

Under the general direction of a Forensic Scientist 2 or 3 in the Department of Law and Public Safety, conducts the chemical analysis of various materials and evidence submitted to the laboratory by law enforcement agencies and Medical Examiners Offices for identification in connection with criminal investigations and prosecutions; performs related field and laboratory work as required.

Initially, the appellant indicated on her PCQ that 20% of her duties are related to some aspect of training Forensic Scientist 1s, 25% of her duties include analyzing evidence by utilizing complex and complicated testing procedures, 10% of her duties include analyzing more complex and high profile cases involving drugs in complex food matrices and cases involving multiple suspects, 9% of her duties include peer review and quality control checks, and 1% of her duties included presenting seminars to outside law enforcement agencies and tours of the laboratory facilities. The appellant's supervisor and Director confirmed that she performed these duties. According to the job specification for Forensic Scientist 2, an incumbent can train Forensic Scientist 1s; conducts more difficult and specialized work involved in the chemical analysis of various matter, substances, specimens and materials . . . in connection with criminal investigations and prosecutions; and may function as a Laboratory Information Management System Coordinator, Laboratory Safety Representative/Coordinator, or Quality Assurance Coordinator of a discipline. Conversely, the job specification for Forensic Scientist 1 does not include the responsibility of training and reviewing peer reports, performing more difficult and specialized work in chemical analysis; and functioning as a Safety Representative/Coordinator or Quality Assurance Coordinator of a discipline. Thus, CPM properly found that the appellant was performing out-of-title duties. *N.J.A.C. 4A:3-3.9(c)8ii(2)* states that if a determination is made finding that the position is properly classified, but that out-of-title duties are being performed, this agency shall order the immediate removal of the inappropriate duties within a specified time. In this case, the appointing authority has confirmed that it removed the out-of-title duties effective March 21, 2014. Therefore, no basis exists to currently reclassify her position to Forensic Scientist 2.

However, the appointing authority's acknowledgment that it removed the duties was initially contained in the PCQ and confirmed when it submitted the

appellant's reclassification request to CPM. The appellant's PCQ was signed by her immediate supervisor on September 5, 2013 but the appellant's Director did not sign it until January 14, 2014, more than four months later. Additionally, the PCQ was not received by CPM until March 28, 2014. Thus, it is clear that more than seven months had passed before this matter was submitted to CPM. *N.J.A.C. 4A:3-3.9(c)7* requires the appointing authority submit an employee's classification appeal to this agency within 10 days of receipt of the appeal. This did not happen. Nonetheless, given that the appellant's Director and supervisor confirms that the appellant performed out-of-title duties, and the appointing authority admits that the out-of-title duties were removed, the Commission finds that the appellant is entitled to differential pay from September 21, 2013 the pay period immediately after 14 days from the date this agency should have received the initial classification appeal, to March 21, 2014, the beginning of the first pay period after the appointing authority removed the out-of-title duties. *See N.J.A.C. 4A:3-3.9(e)3i*.

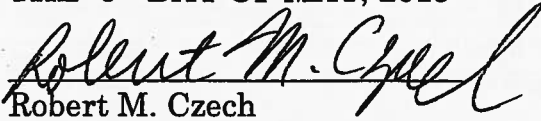
The appellant is not entitled to any other differential pay prior to September 21, 2013. The foundation of position classification, as practiced in New Jersey, is the determination of duties and responsibilities being performed at a given point in time as verified by CPM through an audit or other formal study. Thus, classification reviews are based on a current review of assigned duties and any remedy derived therefrom is prospective in nature since duties which may have been performed in the past cannot be reviewed or verified. Given the evolving nature of duties and assignments, it is simply not possible to accurately review the duties an employee may have performed six months ago or a year ago or several years ago. This agency's established classification review procedures in this regard have been affirmed following judicial challenges. *See In the Matter of Community Service Aide/Senior Clerk (M6631A), Program Monitor (M62780), and Code Enforcement Officer (M00410), Docket No. A-3062-02T2* (App. Div. June 15, 2004) (Accepting policy that classification reviews are limited to auditing current duties associated with a particular position because it cannot accurately verify duties performed by employees in the past).

ORDER

Therefore, it is ordered that this appeal be denied but the appointing authority pay the appellant differential pay for performing duties of a Forensic Scientist 2 from September 21, 2013 to March 21, 2014.

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 6th DAY OF MAY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Lisa M. DeCotiis
Jessica Chianese
Mirella Bednar
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

September 19, 2014

Lisa DeCotiis
Office of Forensic Science
1200 Negron Drive
Hamilton, NJ 08691

**Re: Classification Appeal – Forensic Scientist 1, Department of Law and Public Safety (P25),
Position #956406, HRM Log #04140049, EID #000359346**

Dear Ms. DeCotiis:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation submitted by you, Jacki Mancilla, Assistant Chief Forensic Scientist, Department of Law and Public Safety and your Appointing Authority during the review process.

Issue:

You are serving permanently in the title, Forensic Scientist 1, Department of Law and Public Safety (25, P25, 01592) and contend you are performing duties and responsibilities commensurate with the title, Forensic Scientist 2, Department of Law and Public Safety (28, R28, 01593).

Organization:

Your position is assigned to the Central Regional Laboratory, State Police of the Department of Law and Public Safety. You report directly to John Leaver, Forensic Scientist 3, Department of Law and Public Safety (30, S30, 01594). Your position has no supervisory duties.

Findings of Fact:

The primary function of your position is to analyze evidence for controlled dangerous substances.

You perform the following assigned duties and responsibilities:

- Analyze vegetation, powders, liquids, tablets, capsules, and food items for the presence or absence of controlled dangerous substances by performing microscopic examination, color tests, crystal tests, and drug extraction. Maintain proper chain of custody of all analyzed evidence.

- Complete laboratory report for each case to be used in Municipal and Superior Courts. Reports include determined facts and conclusions, pictures, and graphs to be used as testimony in a court of law.
- Train forensic scientist in procedures and protocols of the Office of Forensic Science and Forensic Drug Unit.

Review and Analysis:

Currently your position is classified in the title, Forensic Scientist 1, Department of Law and Public Safety (25, P25, 01592). The definition section of the job specification for the title, Forensic Scientist 1, Department of Law and Public Safety, states:

“Under the general direction of a Forensic Scientist 2 or 3 in the Department of Law and Public Safety, conducts the chemical analysis of various materials and evidence submitted to the laboratory by law enforcement agencies and Medical Examiners Offices for identification in connection with criminal investigations and prosecutions; performs related field and laboratory work as required.”

The definition section of the job specification for the title, Forensic Scientist 2, Department of Law and Public Safety (28, R28, 01593), states:

“Under the general direction of a Forensic Scientist 3 in the Department of Law and Public Safety, conducts the more difficult and specialized work involved in the chemical analysis of various matter, substances, specimens and materials submitted to the laboratory by law enforcement agencies and Medical Examiners Offices for identification in connection with criminal investigations and prosecutions; May supervise or provide guidance to Forensic Scientists 1, Chemists, Laboratory Technicians, or other laboratory personnel; may function as a Laboratory Information Management System (LIMS) Coordinator, Laboratory Safety Representative/Coordinator, or Quality Assurance (QA) Coordinator of a discipline; performs related field and laboratory work as required.”

The majority of the work performed by a Forensic Scientist 2, Department of Law and Public Safety consists of handling special and more complex cases involving multiple controls and/or sources. A Forensic Scientist 2, Department of Law and Public Safety is responsible for supervising and providing guidance to Forensic Scientist 1 and other laboratory personnel. Additionally, a Forensic Scientist 2, Department of Law and Public Safety is in the “R” bargaining unit and considered a first level supervisor. A first level supervisor is required to supervise lower level employees and/or an organizational unit. Your position does not have the authority to regularly supervise incumbents and work operations, as well as complete Performance Evaluation, and approve leaves and time sheets therefore; you are not working in the capacity or at the level of a first line supervisor.

The duties and responsibilities assigned to your position reflect the duties of a Forensic Scientist 1, Department of Law and Public Safety. Your position is responsible for the analysis of evidence and identification of controlled substances. Duties include maintaining and operating the laboratory instruments and equipment. In addition, you provide training to Forensic Scientist 1’s in procedures and protocols of the Office of Forensic Science and Forensic Drug Unit. Furthermore, the responsibility of training forensic scientist does not appear on the Forensic Scientist 1, Department of Law and Public Safety job specification. Please be advised that this is an out-of-title duty and should be removed from this position.

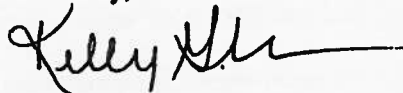
Lisa DeCotiis
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Determination:

Based upon the findings of fact cited above, it is my determination that the assigned duties and responsibilities performed by this position are consistent with your permanent title, **Forensic Scientist 1, Department of Law and Public Safety (25, P25, 01592)**; therefore, your position is appropriately classified.

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

Sincerely,



Kelly Glenn, Assistant Division Director
Classification and Personnel Management

KG/SLA

Cc: Mirella Bednar