

Under the direction of a Supervising Special Agent, or other supervisory official in the Department of Treasury, conducts intra and interstate investigation functions related to criminal and civil violations of New Jersey tax laws administered by the Division of Taxation; recommends and initiates legal proceedings against violators and assists in the preparation of legal documentation and presentment of evidence for the prosecution in criminal and civil proceedings; does other related work.

The definition section of the job specification for the title Special Agent 1 states:

Under direction of the Supervising Special Agent, or other supervisory official in the Department of Treasury, conducts and/or assists in the supervision of intra and interstate investigation functions related to criminal and civil violations of New Jersey tax laws; recommends and initiates legal proceedings against violators, and assists in the preparation of legal documentation and presentment of evidence for the prosecution in criminal and civil proceedings; does other related work.

Based upon a thorough review of the information presented in the record, it is clear that the appellant's position is properly classified as Special Agent 2. Initially, it is noted that the Special Agent 1 title is a supervisory title, and supervisory experience includes responsibility for seeing that tasks assigned to subordinates are efficiently accomplished. It involves independent assignment and distribution of work to employees, with oral or written task instructions, and maintenance of the flow and quality of work within a unit in order to ensure timely and effective fulfillment of objectives. Supervisors are responsible for making available or obtaining materials, supplies, equipment, and/or plans necessary for particular tasks. They provide on-the-job training to subordinates when needed, and make employee evaluations based on their own judgment. They have the authority to recommend hiring, firing, and disciplining employees. *See In the Matter of Julie Petix* (MSB, decided January 12, 2005). *See also, In the Matter of Susan Simon and William Gardiner* (Commissioner of Personnel, decided September 10, 1997). Moreover, the Civil Service Commission has determined that the *essential component* of supervision is the responsibility for the administration of performance evaluations for subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 16, 2001).

Mr. McGovern's position has no in-title supervisory responsibility as described above, and he does not perform formal evaluations (PARS) of employees. It must be emphasized here that the appointing authority has the right to determine the organizational structure of its operation. As long as there are no

improper reporting relationships or misclassifications, how the office is organized is not under the jurisdiction of the Civil Service Commission or reviewable in the context of a classification appeal. Mr. McGovern is supervised by Russell Glenn, Special Agent 1.

Mr. McGovern indicated on the PCQ that he assumed the duties of Training Officer, involving responsibilities such as supervising the Field Training Program, reviewing timesheets for 11 employees, responding to their questions, providing them with guidance, and providing daily observations of recruits and probationary Special Agents. However, Agency Services found that he did not sign off on employee performance evaluations (PARs). Additionally, as a Special Agent 2, any responsibilities Mr. McGovern in the area of training or supervision would be considered out-of-title work for an incumbent in the Special Agent 2 title. *See N.J.A.C. 4A:4-2.6(c)*. Therefore, any responsibilities in these areas should be reassigned to someone in an appropriate title.

The Commission notes that if the appointing authority denies the appellant the responsibility of evaluating PARs, then it should refrain from assigning the appellant the typical work of a supervisor. This includes assigning work, reviewing work, providing input on evaluations, and developing training. The appellant can lead and provide guidance to lower level staff, but should not be assisting the Special Agent 1 with his supervisory responsibilities. Those duties and responsibilities belong to the Mr. McGovern's supervisor, who also supervises these staff. If the appellant is performing these duties, he has been inappropriately assigned tasks by his supervisor, who should be responsible for the tasks of the Special Agent 1.

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. It is long-standing policy that upon review of a request for position classification, when it is found that the majority of an incumbent's duties and responsibilities are related to the examples of work found in a particular job specification, that title is deemed the appropriate title for the position. The job specification for Special Agent 1 indicates that this incumbent may supervise subordinate personnel. A review of the Mr. McGovern's PCQ does not support that that he performs at this level. Additionally, since Mr. McGovern reports to someone in the Special Agent 1 title, reclassifying his position to the Special Agent 1 would create an improper reporting relationship.

A thorough review of the information presented in the record establishes that Mr. McGovern's position is properly classified as Special Agent 2 and he has not presented a sufficient basis to establish that his position is improperly classified.

ORDER

Therefore, the position of Charles McGovern is properly classified as Special Agent 2.

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 21ST DAY OF NOVEMBER, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals
and Regulatory
Civil Service Commission
Written Record Appeals Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

c: Charles McGovern
Lauren Budzinski
Kelly Glenn