



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Jillian Itri,
Rowan University

CSC Docket No. 2018-1154

Classification Appeal

ISSUED: June 22, 2108 (RE)

Jillian Itri appeals the decision of the Division of Agency Services (Agency Services) which found that her position with Rowan University was correctly classified as an Assistant Supervisor 4, Administrative Services. The appellant seeks an Assistant Supervisor 3, Administrative Services job classification in this proceeding.

At the time the appellant requested a classification review of her position, her permanent title was Assistant Supervisor 4, Administrative Services,¹ effective March 8, 2014. Her position, located at Rowan University, Division of Pension and Benefits-Client Relations, reports to a Pension and Benefits Manager, and does not have any supervisory responsibilities. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties she performs as an Assistant Supervisor 4, Administrative Services. Agency Services evaluated the PCQ and determined that her position was properly classified as an Assistant Supervisor 4, Administrative Services.

On appeal, the appellant states that she was not advised that her immediate supervisor would have any input, and that she understood that the Department Head would provide comments. She states that she submitted an appeal to her supervisor on February 1, 2016, and received a denial letter dated October 26, 2016, from Rowan University on November 1, 2016. She appealed that determination to

¹ The Assistant Supervisor 4, Administrative Services title is an "aligned title" that is represented by the Communications Workers of America.

this agency on November 1, 2016 and received a determination, dated September 25, 2017, from Agency Services.

While the appellant states that three duties were used to support the denial of her classification, only two were found in the determination. The appellant maintains that she assists in the preparation, review and revision of a budget, consults with the Director to resolve problems or policy concerns, supervises work operations and is responsible for employee evaluations and other supervisory responsibilities. The determination from Agency Services did not discuss assistance in the preparation, review and revision of a budget. She maintains that other employees are in the title Assistant Supervisor 2, Administrative Services and do not supervise. She provides a list of duties that she performs and her responsibilities. The appellant requests that her position be classified to Assistant Supervisor 2, Administrative Services or Professional Services Specialist 2, Administrative Services and wants differential back pay from February 1, 2016, when she submitted her appeal to her supervisor.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that appeals from the decision of the Civil Service Commission (Commission) representative to the Civil Service Commission may be made by an employee, authorized employee representative, or local appointing authority. The appeal shall be submitted in writing within 20 days of receipt of the decision letter and include copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for the title Assistant Supervisor 4, Administrative Services states:

Under the direction of a Director in the Administrative Services area at a State College, supervises one or more sections of a single objective program or unit; or under the direction of an Associate Supervisor, is responsible for exercising coordination over one or more sections of a single objective program or unit; participates in the development and implementation of program or unit goals, policies and procedures affecting academic and/or student activities of the college; does related work as required.

The definition section of the job specification for the title Assistant Supervisor 3, Administrative Services states:

Under the direction of a Director 3 or 4 in the Administrative Services area at a State College, supervises one or more sections of a single objective program or unit; or under the direction of a Director 1 or 2, is responsible for exercising general supervision over one or more sections of a major program or unit and staff; participates in the development and implementation of program or unit goals, policies and procedures; does related work as required.

The definition section of the job specification for the title Personnel Assistant 3 states:

Under supervision of a supervisory official in a State department, institution, or agency, performs moderately difficult personnel work pertinent to one or more major personnel program areas such as classification, recruitment, personnel orientation and training, personnel research, administrative services, employee counseling and personnel services, and management assistance; does other related work.

Initially, it is noted that Rowan University conducted its own review of the appellant's position and provided her with a denial letter. Thus, the Commission must determine if it was appropriate for the appointing authority to have conducted a classification review in this matter. The question if positions in the State Colleges are subject to the position classification authority of the provisions of Title 11A of the New Jersey Statutes and Title 4A of the New Jersey Administrative Code can be confusing because of the overlapping areas of responsibilities between the State Colleges and the Commission. Indeed, prior to July 1986, all positions in the State Colleges were clearly subject to the provisions of the former Title 11.² However, effective July 9, 1986, the Legislature passed P.L. 1986 c. 42, that provided the State Colleges increased autonomy in many areas. As part of this increased autonomy, *N.J.S.A. 18A:64-21.2* was enacted specifying that professional members of the academic, administrative and teaching areas were not subject to the provisions of the former Title 11. *N.J.S.A. 18A:64-21.2* states:

Professional members of the academic, administrative and teaching staffs shall include all faculty positions, current professional positions listed as unclassified positions pursuant to Title 11, Civil Service, of the Revised Statutes *and all professional positions currently listed as classified positions pursuant to Title 11 of the Revised Statutes, which are not presently included within any bargaining unit.* All these positions shall be removed from the provisions of Title 11 of the Revised Statutes; however, any employee currently having classified status in a title shall have the option of retaining all the rights and

² Now Title 11A.

privileges of a classified employee in that title for so long as the employee maintains uninterrupted service in, or is on an approved leave of absence from, that title. (Emphasis added).

Significantly, State Colleges were still permitted to appoint, remove, promote and transfer other officers, agents or employees in accordance with the former Title 11.

After the enactment of P.L. 1986, c. 42, the Commission removed a number of classified titles not included in a bargaining unit from the State Classification Plan for use by the State Colleges. Thereafter, the Department of Higher Education established the State College Classification Plan (SCCP) to govern the classification of those positions that were removed from the provisions of Title 11. The SCCP was administered by the former Chancellor of Higher Education, through the Presidents of each of the State Colleges. In fact, a regulatory scheme governing the SCCP, *N.J.A.C.* 9-6A and 9:6, was in place between January 1988 and May 1996 that provided for the State Colleges to determine all matters concerning position classification for the positions that were removed from the auspices of Title 11. In other words, some positions in State Colleges were subject to a classification review by the Commission (bargaining unit titles) and others to classification review procedures by the State Colleges (non-bargaining unit titles).

However, in 1993 the Merit System Board³ created many generic non-competitive titles for use by the Department of Higher Education as part of a settlement agreement to resolve a clarification of bargaining unit charge brought before the Public Employee Relations Commission by the CWA. Specifically, that charge claimed that some of the titles created by the State Colleges after July 1986, *i.e.*, the ones no longer subject to the provisions of Title 11A, actually involved functions performed by career service titles that were formerly aligned, bargaining unit titles. Germane to the matter at hand, one of the title series that was created is Assistant Supervisor, Administrative Services. Accordingly, when these generic, non-competitive titles were created, they were assigned to an employee relations group to the appropriate bargaining unit. Although further legislation was enacted in 1994 providing for more autonomy of the State Colleges, the regulatory scheme governing the SCCP expired in May 1996.

Prior to the expiration of the rules governing State College personnel practices and classification in May 1996, in or around July 1994, this agency took the position that it was not required to review or approve any classification actions within the State Colleges for *any* career service title, but that the former Commissioner of Personnel would review appeals of classification decisions made by a State College regarding an incumbent in *any career service title* in the context of

³ On June 30, 2008, Public Law 2008, Chapter 29 was signed into law and took effect, changing the Merit System Board to the Civil Service Commission, abolishing the Department of Personnel and transferring its functions, powers and duties primarily to the Civil Service Commission.

the classification plan put in place by the particular State College for its employees. In other words, the Commissioner of Personnel would not utilize the same standards set for other Executive branch agencies when reviewing appeals of initial classification determinations made by a State College. This position was apparently taken in anticipation of a task force report required by the Higher Education Restructuring Act of 1994 regarding the feasibility of continued Civil Service status for State College employees serving in *non-professional* and *non-academic* titles. See P.L. 1994, c. 48. As a result of a committee's review, in its June 1995 report to the Governor and Legislature, the Commission on Higher Education recommended legislation that would allow the State Colleges to assume full responsibility for its employees currently covered under Civil Service that preserved the impacted employees rights up to the expiration of the collective negotiations agreement on July 1, 1998. Anticipating that the State Colleges would "assume administrative responsibility for those [S]tate college employees who are currently under civil service" at least by July 1998, the Commission on Higher Education noted that State Colleges could utilize the services of the Department of Personnel as "customers," if all the parties were agreeable, in such areas as classification and testing, where "regulations may not be necessary in those particular areas."

Based on the aforementioned, in this case, it appears that Rowan University performed the initial classification review of the appellant's position and she appealed its October 27, 2016 determination to the Commission. However, the arrangement to permit the State Colleges to make initial classification determinations appealable to the former Commissioner of Personnel (now Commission), occurred in 1994, when specific regulatory criteria still existed establishing and governing the SCCP, *i.e.*, the former Title 9 and Title 9A of the New Jersey Administrative Code. Further, in anticipation of legislation to permit it to do so, the Commissioner of Higher Education's report in June 1995 envisioned that the State Colleges would assume administrative responsibility for employees covered under Civil Service by July 1998. However, the regulations governing State College personnel practices and classification expired in May 1996 and legislation has yet to be enacted providing the State Colleges full responsibility for its employees currently covered under Civil Service. Accordingly, since it is still current law, the Commission's review of position classifications in the State Colleges must be done in compliance with *N.J.S.A. 18A:64-21*.

Therefore, the Commission finds that it has the authority to review position classifications at the various State Colleges of all non-professional and professional career service positions which are included within a bargaining unit in a State College, *i.e.*, positions classified by aligned titles. However, if a classification appeal to the Commission by an employee in a professional title included within a bargaining unit results in a finding that the position should be reclassified by a non-aligned title, *i.e.*, a title that under the State Classification Plan is not represented

by a bargaining unit, because *N.J.S.A.* 18A:64-21 has removed these titles from Civil Service, the State Colleges should be advised that the employee's position is not subject to the provisions of Title 11A. In other words, those employees of State Colleges in positions the Commission would classify by non-aligned titles are not covered by Civil Service.

In this case, the primary duties of the appellant's position include reviewing and processing pension applications; completing audit reports and other reports; conducting retirement consultations and processing health benefits and retirement certifications; reviewing and tracking workers' compensation claims; assisting the Pension and Benefits Manager with health benefit related matters and processing; assisting in development and implementation of the light duty program; conducting new employee orientations and exit interviews; and sending emails when pension vendors are on campus. These duties fall squarely within the definition for the title Personnel Assistant 3. Thus, the appellant's position would clearly be best classified as Personnel Assistant 3, which is a non-aligned title. However, as the position is located in a State College, in accordance with *N.J.S.A.* 18A:64-21, it is not subject to the provisions of Title 11A, and the Commission cannot assign a classification to the position.

Generally, in accordance with *N.J.A.C.* 4A:3-3.5(c) within 30 days from the issuance date of a classification determination, an appointing authority shall either effect the required change in the classification of the employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to duties and responsibilities to which the employee has rights. However, given the nature of the duties of the position she encumbers, it is questionable if the appellant in this case could have ever achieved permanent status, and the attendant tenure rights, associated with career service appointment under Title 11A. Nevertheless, as it is unclear on this record if the appellant achieved permanent status in her career service title performing duties of a title that would be included with a bargaining unit, she should be afforded all the rights possible under *N.J.A.C.* 4A:3-3.5(c) that are consistent with *N.J.S.A.* 18A:64-21.

Therefore, as the appellant's position is under the authority of a State College, and the duties of the position would be classified by an unaligned title, Personnel Assistant 3, Rowan University can effect the required change in the appellant's position classification by maintaining her current duties, advising her that she no longer has tenure in a career service title, *i.e.*, she no longer serves in the career service title of Assistant Supervisor 4, Administrative Services, and title the position by whatever moniker the State Colleges uses to classify her position. The other option Rowan University has under *N.J.A.C.* 4A:3-3.5(c), as the appellant's current title of Assistant Supervisor 4, Administrative Services is represented by a bargaining unit and, assuming that she has achieved tenure in

that title, is to assign the appellant duties consistent with her permanent title outside of personnel functions for her to retain her tenure in Civil Service.

On that note, the record indicates that the appellant previously filed for classification review. In a letter dated April 12, 2012, the Division of State and Local Operations⁴ indicated to the appellant that, had there been a formal classification determination in that matter, her position would have been classified as Personnel Assistant 4, which is a confidential professional title, and this classification would have removed her position from Civil Service. Thus, it is clear that both the appellant and Rowan University have been aware that the duties of her position would result in a classification that cannot be included in Civil Service. Accordingly, unless the appellant is assigned the duties that would not be included in a title represented by a bargaining unit under the State Classification Plan, the Commission would not have jurisdiction to review an appeal of Rowan University's determination of her position classification.

Lastly, the Commission is not persuaded by the appellant's arguments regarding the classification of her colleagues. The appellant's position stands on its own and is classified based on the duties she performs. The duties performed by other individuals, whether properly or improperly classified, are irrelevant in determining the proper classification of the appellant's position. When an employee requests a classification review of his and her position, it is done based on the duties currently assigned and being performed in that position and not those of other positions.

A thorough review of the information presented in the record establishes that the appellant's position is not properly classified as an Assistant Supervisor 4, Administrative Services, and she has not presented a sufficient basis to establish that her position warrants an Assistant Supervisor 3, Administrative Services job classification.

ORDER

Therefore, the Civil Service Commission finds that the position of Jillian Itri is not properly classified as an Assistant Supervisor 4, Administrative Services. Therefore, within 30 days of the issuance date on this decision, the appellant's position should be removed from Civil Service or that she be assigned duties consistent with her permanent title of Assistant Supervisor 4, Administrative Services.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

⁴ Now the Division of Agency Services.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20th DAY OF JUNE, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Jillian Itri
Stephanie Cozzone
Kelly Glenn
Records Center