



STATE OF NEW JERSEY

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

In the Matter of Nermin Messiha,
Department of Law and Public Safety

CSC Docket No. 2018-3298

Classification Appeal

ISSUED: August 3, 2018 (RE)

Nermin Messiha appeals the decision of the Division of Agency Services (Agency Services) that the proper classification of her position is Agency Services Representative 4. The appellant seeks an Investigator 1, Law and Public Safety classification.

The record in the present matter establishes that the appellant is currently serving permanently in the title of Agency Services Representative 4. The appellant pursued the matter of her reclassification with Agency Services, which reviewed all documentation and comments supplied by the appellant, her supervisor and the appointing authority. The position is in the Department of Law and Public Safety, Division of Consumer Affairs, Team 9, reports to an Executive Secretary, and has no supervisory duties. Agency Services concluded that the appellant’s proper classification was Agency Services Representative 4. In this regard, Agency Services concluded that the appellant’s primary responsibility is to review applications for licensure and issue licenses.

On appeal, the appellant argues that she comprehensively investigates information to uncover and follow leads within the presented documents or information, and her analysis of the presented information enables her to picture the dynamics of any possible violation of current or past practices. She states that she constructs a chain of investigative inquiries and independent investigations to obtain and secure evidence of violations, and she presents two sample cases of her work as examples of suspecting and investigating violations. She states that her duties are not clerical or customer service oriented, and are beyond those expected

of an Agency Services Representative 4. She states that she must “detect inconsistencies with multiple complex sets of information, suspect specific violations, devise a framework of series of violation-specific as well as desired-findings-targeted investigative inquiries to disentangle a multi-axial fused circumstances, obtain and gather information from a wide variety of sources (applicants’, Web, out-of-state agencies, employers and supervisors), conduct a cross-reference analysis of gathered data and records, [and] analyze acquired data to determine compliance with regulatory requirement or confirm violations of said regulations.”

The appellant states that her duties conform to the job definition of the requested title, that 95% of her daily tasks are “core investigation,” and her duties do not match the job definition of Agency Services Representative 4. She states that the job specification for Investigator 1, Law and Public Safety does not reference criminal investigations, but refers to civil and regulatory investigatory activities, which she performs. She indicates that she is the only Agency Services Representative who formulates “investigative reports, within the contour of my position, to communicate my self-driven findings with the Board, for sanctions,” and that this duty is outside of the job specification of her title. She argues that, while she is the sole reviewer of records, her primary task is not reviewing and processing applications, but is analyzing and investigating situations to elicit accurate information about “multiaxial convulsions and inconsistencies within the presented records, or hypothesized circumstances.” She states that she approves or denies credentials after deeming them compliant or noncompliant based on her judgement and investigation. As to supervision, the appellant states that she assigns and oversees the work of others.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide 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 Agency Services Representative 4 states:

Under the direction of a supervisory official in a State department or agency or institution, provides front-line and behind the scenes customer and other support services involving the review, processing and issuance of agency documents; provides varied information to customers regarding department/agency programs and services; handles the most complex and/or sensitive customer issues, requests

and complaints; functions in a lead worker capacity; does other related work as required.

The definition section of the job specification for Investigator 1, Law and Public Safety states:

Under close supervision of a Supervising Investigator or under the guidance of an Investigator 4 or other supervisory official in the Department of Law and Public Safety, assists in regulatory audits and inspections of licensed premises; reviews records, files, financial statements, and other transactions to determine compliance with rules or regulations governing consumer protection laws; conducts, under close supervision, civil and regulatory investigative activities or specialized investigations to detect alleged noncompliance with or violations of New Jersey State statutes, administrative codes, or Professional Rules of Conduct or consumer protection laws; does other related duties as required.

In the instant matter, Agency Services determined that the appellant's position was appropriately classified as an Agency Services Representative 4. Specifically, Agency Services concluded that the appellant's duties were in accord with the duties for the title as, while her duties may involve research and occasionally finding rule violations for which to recommend penalties, the position does not have a primary responsibility of conducting criminal investigations. Her duties constitute lead worker duties, and she handles the most difficult and sensitive inquiries of a highly complex licensure process. In this regard, the appellant's Position Classification Questionnaire (PCQ) stated that she performed "Investigative review of highest level of Social Work licensure," and then provided a list of bulleted tasks performed 90% of the time, and added three remaining duties performed 5%, 4%, and 1% of the time. The appellant indicated that for 5% of her time, she had phone responsibility, for 4% of the time she had email responsibility, and for 1% of the time she performed "miscellaneous." Since there were 30 tasks associated with 90% of her time, the appellant was essentially not responding to the amount of time performing each task, or the order of difficulty for each of these 30 tasks. Auditees are expected to unambiguously list their duties and, according to the instructions, do so in a manner "so clear that persons unfamiliar with the work can understand exactly what is done." Thus, the PCQ is not determinative that the primary focus of her position is investigations, as the appellant has cloaked the amount of time and importance of her primary duties.

The appellant's supervisor has indicated that she is responsible for reviewing a complex application for licensure at the highest level of social work, a difficult task at which she excels. Her most important duties are overseeing the licensure process, determining eligibility for licensed Clinical Social Worker license, and

preparing problematic applications for Board review. Her program manager indicates that the position reviews applications for professional licensure, and is not assigned investigative duties, and the appointing authority indicates that another operational unit is responsible for investigating potential violations of licensure. The organizational chart indicates no other employees serving an Investigator titles in the unit. In sum, the appellant uncovers violations during her work of making recommendations to issue licenses. Each application is reviewed, but not every application indicates a problem requiring further investigation, and the supervisor indicates that there is a very low percentage of uncovered violations. Investigators investigate allegations of illegal activities or noncompliance with State statutes and administrative codes. In conducting civil or criminal investigations, they are required to assist in regulatory audits and inspections of licensed premises. The appellant does not go offsite to gather evidence, and any investigative duties she performs are ancillary to the primary purpose of the position as described by her supervisor.

Accordingly, the appellant has failed to establish that Agency Services' determination that her position was properly classified as an Agency Services Representative 4 was incorrect.

ORDER

Therefore, the Civil Service Commission concludes that the proper classification of the appellant's position is Agency Services Representative 4.

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 1st DAY OF AUGUST, 2018



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