



STATE OF NEW JERSEY

CIVIL SERVICE COMMISSION

In the Matter of Michael Milling,
William Paterson University

Request for Enforcement

CSC Docket No. 2019-589

ISSUED: FEBRUARY 22, 2019 (HS)

Michael Milling, represented by Jenelle Blackmon, Communications Workers of America Staff Representative, requests enforcement of a determination by the Division of Agency Services (Agency Services) that his position with William Paterson University is properly classified as a Professional Services Specialist 2, Computer Services.

The record in the present matter establishes that at the time of his request for a classification review, the appellant was permanent in the title of Professional Services Specialist 4, Computer Services. His position was assigned to Instruction and Research Technology, Department of Information Technology. Agency Services received the appellant's request, performed a review of all submitted information including a Position Classification Questionnaire (PCQ) that detailed the different duties performed with associated percentages of time, and conducted a telephone audit with the appellant and his supervisor. Agency Services found that the appellant possessed supervisory responsibility over eight employees, five of which were students and three of which were part-time employees. It found that the primary duties and responsibilities of the appellant's position entailed, among other things: training employees on policy, equipment and proper maintenance of equipment; scheduling and assigning tasks to subordinate employees; supervising the completion of Media Services projects; making budget requests based on research and compiling of data; interviewing subordinates and being responsible for disciplinary actions; keeping records of bookings and fines related to student and faculty members; repairing and maintaining audio-visual classroom systems to limit downtime; monitoring GVE page for trouble in classrooms and remote repair;

and attending departmental meetings to convey progress of Media Services projects and goals. The April 16, 2018 review by Agency Services determined that the duties and responsibilities of the appellant's position were commensurate with the title of Professional Services Specialist 2, Computer Services, effective September 30, 2017.

After receiving Agency Services' determination, the appointing authority indicated that it opted not to effect the required change to the classification of the appellant's position. Rather, the appointing authority indicated that it assigned duties and responsibilities commensurate with the appellant's permanent title of Professional Services Specialist 4, Computer Services. On May 31, 2018, the appointing authority submitted a revised PCQ indicating the duties and responsibilities of the appellant's position. Agency Services received the revised PCQ and responded that should any questions arise or further documentation be required, it would contact the appointing authority. The record reflects that Agency Services did not question the revised PCQ or request further documentation. The appointing authority paid the appellant differential back pay from the date specified in the classification determination, September 30, 2017, until the completion of the revised PCQ on May 31, 2018.

In his request for enforcement, the appellant maintains that higher level duties were never removed and that he continues to perform duties commensurate with the title of Professional Services Specialist 2, Computer Services. In support, the appellant submits a number of documents, including his Performance Assessment Review (PAR) form for the July 1, 2018 to June 30, 2019 rating period. One of the appellant's primary responsibilities according to the PAR form is to participate with other team members in the interview process. Other submitted documents include the following:

- A June 11, 2018 e-mail in which the appellant provided another individual with an outline of the job responsibilities of a Graduate Assistant for a posting
- A June 27, 2018 e-mail forwarding a Department Head report submitted by the appellant that outlined departmental tasks and highlights of work performed
- A July 17, 2018 e-mail in which the appellant requested a consultation to discuss a furniture purchase
- A July 19, 2018 e-mail from the appellant to staff scheduling training
- An August 6, 2018 e-mail in which the appellant provided staff with their work hours for the fall
- An August 21, 2018 e-mail regarding a new hiring process for student employees, addressed to "Hiring Authorities for Student Employees" and received by the appellant

- An August 29, 2018 e-mail from the Director of Instruction and Research Technology discussing the appellant's role in collaborating/coordinating with other departments on a brochure
- An August 31, 2018 e-mail requesting that the appellant coordinate Media Services equipment for an event
- A September 11, 2018 e-mail from the appellant regarding the coordination of laptops for Media Services classes

The appellant thus requests that his position be reclassified to Professional Services Specialist 2, Computer Services, effective September 30, 2017, and that additional back pay be awarded to cover the period from June 1, 2018 to the present.

In response, the appointing authority proffers that the appellant's appeal, initiated on August 24, 2018, is untimely given that he was provided with his job responsibilities on June 1, 2018. On the merits, the appointing authority maintains that the appellant has been performing duties commensurate with the title of Professional Services Specialist 4, Computer Services since June 1, 2018. It states that the appellant participates with other members of the Instruction and Research Technology team in conducting interviews and recommending student applicants for part-time employment in the department. It states that core duties of the appellant's position include maintaining and scheduling the use of classroom technology and equipment by faculty and students and providing guidance and instruction to end users. In doing so, according to the appointing authority, the incumbent must establish and maintain good communications and relationships with customers to understand and address their technology needs as well as collaborate with other staff members to ensure the efficient delivery of services. The appointing authority maintains that the appellant does not have authority or responsibility for budgetary decision-making.

In reply, the appellant maintains that his appeal is timely. Specifically, the appellant claims that it was not until late August 2018 that he learned, in a phone conversation with Agency Services staff, that the appointing authority had determined not to effect the required change to the classification of his position. On the merits, the appellant states that it must be recognized that he provides direction, assignments and scheduling. He states that he has been responsible for communicating his department's hiring needs and communicating with potential staff about interviews and job responsibilities. The appellant also argues that an incumbent serving in the title of Professional Services Specialist 2, Computer Services is not required to be an independent decision-maker regarding budgetary requests or acquisitions per the job specification. Rather, the incumbent "[p]rovides budget recommendations for area activities" according to the examples of work, and the appellant maintains that he is charged with such work. In support, the appellant submits various additional documents including the following:

- A June 21, 2018 e-mail indicating receipt of the appellant's fiscal year 2019 budget plans and goals in response to an earlier request for a list of budget needs
- A September 10, 2018 screenshot of an internal personnel database that identifies the appellant as an employee's "Supervisor for Performance Evaluation"

CONCLUSION

N.J.A.C. 4A:2-1.1(b) provides that unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation or action being appealed. The appointing authority contends that the appellant's request in this matter is untimely since he was provided with his job responsibilities on June 1, 2018 but did not initiate his appeal until August 24, 2018. The Civil Service Commission (Commission) does not find this contention persuasive. The gist of the appellant's argument is that, regardless of the list of job responsibilities he was provided with on June 1, 2018, the classification of his position never in fact changed. Further, one of the documents the appellant presents in support, the e-mail addressed to "Hiring Authorities for Student Employees" and received by the appellant, is dated August 21, 2018. For these reasons, the Commission finds that the appellant filed his appeal within a reasonable period of time and declines to dismiss it on the basis of untimeliness.

Turning to the merits, *N.J.A.C.* 4A:3-3.5(c)1 provides, in pertinent part, that following 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.

The definition section of the job specification for Professional Services Specialist 4, Computer Services states:

Under the coordination of a Professional Services Specialist 2 or higher supervisory officer in the Computer Services area at a State College, is responsible for performing basic professional functions using established policies, procedures, precedents and guidelines; does related work as required.

Examples of work include establishing liaison and maintaining cooperative working relationships with other staff or organizations whose functions impact on assigned responsibilities; assigning and monitoring the work of clericals, part-time and/or student workers as required; preparing correspondence in the course of

official duties; assisting in the development and implementation of appropriate training programs for students, staff and others; providing guidance and instruction in the proper and safe use of equipment for which the unit is responsible; scheduling use of, setting up and maintaining equipment; and gathering and compiling materials for publication and other requisite reports.

The definition section of the job specification for Professional Services Specialist 2, Computer Services states:

Under the supervision of a higher administrative officer in the Computer Services area at a State College, is responsible for independently performing professional work of considerable difficulty using established policies, procedures, precedents and guidelines; does related work as required.

Examples of work include reviewing and evaluating workload and process; providing budget recommendations for area activities; and assisting in the interview of prospective subordinate staff members and providing recommendations concerning selection.

Upon review, the Commission cannot ignore items in the record suggestive of the appellant's performance, after May 31, 2018, of at least some duties that may be out-of-title for a Professional Services Specialist 4, Computer Services. In this regard, the appointing authority indicates in its response to this enforcement request that the appellant participates with other members of the Instruction and Research Technology team in conducting interviews and recommending student applicants for part-time employment in the department; the appellant's PAR form indicates that one of his primary responsibilities is to participate with other team members in the interview process; the appellant submitted budget plans and goals in response to an earlier request for a list of budget needs; the appellant was sent an e-mail addressed to "Hiring Authorities for Student Employees;" and the appellant was identified as an employee's "Supervisor for Performance Evaluation." *N.J.S.A.* 11A:3-1 and *N.J.A.C.* 4A:3-3.1(a) provide that each position in the career and unclassified services shall be assigned to a job title. *N.J.A.C.* 4A:3-3.3(d) provides that positions in the career, unclassified and senior executive services shall be subject to job audit to ensure accurate classification and compliance with Titles 11A and 4A. Moreover, *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title that the employee holds. Since questions remain as to whether higher level or out-of-title duties were in fact removed, it is appropriate to refer this matter to Agency Services for a classification review of the appellant's position.

ORDER

Therefore, it is ordered that the request for enforcement be held in abeyance pending the determination of the Division of Agency Services regarding Michael Milling's position.

It is further ordered that the Division of Agency Services complete its classification review of Milling's position and issue its determination to Milling, William Paterson University and the Civil Service Commission within 60 days of the issuance of this decision.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20TH DAY OF FEBRUARY, 2019



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