



STATE OF NEW JERSEY

In the Matter of Jodi Biondi, Essex
County

**FINAL ADMINISTRATIVE ACTION
OF THE CHAIR/
CHIEF EXECUTIVE OFFICER
CIVIL SERVICE COMMISSION**

CSC Docket No. 2022-1657

Classification Appeal

ISSUED: April 10, 2023 (ABR)

Essex County, represented by Sylvia Hall, Esq., Director of Labor Relations, appeals the determination of the Division of Agency Services (Agency Services), which found that Jodi Biondi’s position with the Essex County Department of Corrections was properly classified as Investigator Secured Facilities. Essex County seeks a County Correctional Police Officer classification.

The record in the present matter establishes that at the time of the Essex County Superior Officers’ Association’s (Association) request for a classification review on behalf of Biondi, Biondi was serving in her permanent title of County Correctional Police Officer. In March 2021, the Association requested a classification review of Biondi’s position with the Essex County Department of Corrections. In support of the classification review request, Biondi submitted a Position Classification Questionnaire (PCQ) detailing the different duties she performed. In her PCQ, Biondi stated, in relevant part, that on a daily basis she received and reviewed reports brought to the investigations unit and related video surveillance; secured contraband related to the reports; maintained regular contact with outside agencies, including the Essex County Prosecutor’s Office, State and local law enforcement agencies on matters that may implicate administrative offenses related to criminal investigations; and testified as a witness in a legal proceedings regarding evidence and other pertinent materials.

Agency Services conducted a review of Biondi's PCQ and a telephone audit. Agency Services found that the primary focus of Biondi's position was conducting investigations of alleged criminal acts and administrative violations committed by inmates, visitors, and staff in the Internal Affairs Bureau at the Juvenile Detention Center. It also found that Biondi interviewed and investigated persons charged with offenses; assisted law enforcement agencies and prosecutors on investigations into crimes and/or offenses committed at the facility; interviewed and investigated persons charged with indictable and administrative offenses; and investigated any allegations of misconduct that is a potential violation of a rule, regulation, policy or state law at the juvenile detention facility. Based upon these findings and the fact that there was no dispute as to whether Biondi performed investigative duties, Agency Services found that Biondi's position was most appropriately classified by the Investigator Secured Facilities title. Therefore, she was considered to be serving in that title provisionally, pending promotional procedures (PAP), effective January 20, 2022.

On appeal to the Civil Service Commission (Commission), the appointing authority argues that the job performed by Biondi is consistent with the title of County Correctional Police Officer. In this regard, it submits a PCQ from Biondi, dated August 15, 2022, which indicates that Biondi's investigatory duties have been removed and that she is assigned to a tour of duty within the Essex County Correctional Facility; performs a wide variety of tasks in support of the safety, security and welfare of inmates, facility personnel and visitors; and performs other related duties.

In response, the Association maintains that Biondi executed the August 15, 2022, PCQ under duress. In this regard, it contends that Deputy Warden Antonio Pires sent Biondi a PCQ on that date and two minutes later she was sent a second email with material she was directed to copy and paste. It indicates that Biondi was called off her post to report to Deputy Warden Pires' office, where he and Warden Guy Cirillo questioned her about her 2021 PCQ. The Association states that Biondi was then instructed to sit at a computer terminal just outside of the Warden's office to complete, print and sign the form. It avers that Biondi continued to work in internal affairs for a prolonged period after the appointing authority claimed to have returned her to County Correctional Police Officer duties. Furthermore, it alleges that three less senior provisional investigators, who did not submit classification appeals to this agency, have remained in internal affairs and were rewarded with pay increases, while Biondi and another investigator were removed in retaliation for cooperating with the Association's request for classification reviews. Moreover, the Association complains that the appointing authority has not requested a competitive examination since the Investigator Secured Facilities (PC1032T) eligible list was exhausted and expired in 2018.

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.

N.J.A.C. 4A:3-3.1(b)1 provides that positions shall be assigned by the Commission and be assigned the title which describes the duties and responsibilities to be performed and the level of supervision exercised and received.

N.J.A.C. 4A:3-3.5(c)1 states, in pertinent part, that within 30 days of receipt of the reclassification determination, unless extended by the Chairperson or designee in a particular case for good cause, the appointing authority shall either effect the required change in the classification of an employee's position; or reassign the employee to the duties and responsibilities to which the employee has permanent rights.

The definition section of the job specification for County Correctional Police Officer states:

Under supervision during an assigned tour of duty within an adult county correctional facility or institution, performs a wide variety of tasks in support of the safety, security and welfare of inmates, facility personnel and visitors; performs other related duties as required.

The definition section of the job specification for Investigator Secured Facilities states:

Under the direction of a supervisory official responsible for internal affairs investigations for a state adult correctional or juvenile treatment facility, or county correctional facility, performs the field and office work involved in the investigation of alleged criminal activities and disciplinary charges at the institution and satellite units; does other related duties as required.

In the instant matter, the appointing authority disputes Agency Services' characterization of the primary focus of Biondi's duties, effective January 20, 2022. Namely, it contends that the majority of her duties are consistent with the Examples of Work portion of the job specification for the County Correctional Police Officer title. However, a thorough review of the information presented in the record establishes that Biondi's position at the time of the audit was Investigator Secured Facilities and that the appointing authority has not presented a sufficient basis to establish that

her position should have been classified as County Correctional Police Officer. In making classification determinations, emphasis is placed on the Definition section to distinguish one class of positions from another. The Definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. On the other hand, the Examples of Work portion of a job description provides typical work assignments which are descriptive and illustrative and are not meant to be restrictive or inclusive. See *In the Matter of Darlene M. O'Connell* (Commissioner of Personnel, decided April 10, 1992). The record demonstrates that Biondi, at the time of the initial PCQ in this matter, was serving with the appointing authority's Internal Affairs Bureau and was primarily responsible for investigating alleged criminal acts and administrative violations committed by inmates, visitors and staff in the Essex County Juvenile Detention Center. Such duties are consistent with the primary focus of the Investigator Secured Facilities title. Therefore, Agency Services properly determined that Biondi was properly classified as an Investigator Secured Facilities, effective January 20, 2022. However, Agency Services' March 1, 2023, review of the PCQ submitted to this agency on August 23, 2022, has established that the appointing authority subsequently assigned Biondi duties commensurate with her permanent title of County Correctional Police Officer and removed duties inconsistent with that classification. Therefore, pursuant to *N.J.A.C. 4A:3-3.9(e)3ii*, effective August 23, 2022, the appropriate classification of Biondi's position is County Correctional Police Officer.

One final comment is warranted. The record shows that the appointing authority took seven months to establish that it had assigned duties to Biondi consistent with her permanent title (January 2022 to August 2022). In this regard, *N.J.A.C. 4A:3-3.5(c)1* states that an appointing authority needs to act within 30 days of receipt of a reclassification action. Nevertheless, when an employee is granted an upward reclassification by Agency Services, the appointment is considered provisional pending applicable examination procedures. As a provisional, an employee has no vested right to a permanent position and can be separated from that provisional position at any time. Accordingly, while the appointing authority should have effected the removal of the Investigator Secured Facilities duties earlier, Biondi is not entitled to any further remedy as the reclassification of her position from the date awarded by Agency Services to the date she was assigned duties commensurate with her permanent title is, in essence, the appropriate remedy. However, the appointing authority is cautioned to strictly follow the provisions of *N.J.A.C. 4A:3-3.5(c)1* in the future. Failure to do so may subject it to fines or other action in accordance with *N.J.A.C. 4A:10-1.1* and *N.J.A.C. 4A:10-2.1*.

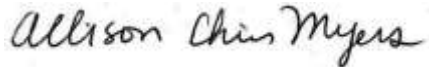
ORDER

Therefore, the position of Jodi Biondi was properly classified as Investigator Secured Facilities, effective January 20, 2022, through August 22, 2022. It is further

ordered that Biondi's position is properly classified as County Correctional Police Officer, effective August 23, 2022.

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

DECISION RENDERED ON
THE 6TH DAY OF April, 2023



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