

authority agrees that she should not be penalized for its administrative delay.² The petitioner requests that the Civil Service Commission (Commission) provide her with a retroactive appointment date to October 14, 2022, due to administrative error, which is the date by which the appointing authority was to submit her request to this agency.

CONCLUSION

N.J.A.C. 4A:3-3.9(c)3 provides, in pertinent part, the supervisor and program manager/division director shall complete their portions of the position classification questionnaire within 15 days of the employee's submission of the petition to the immediate supervisor. By no later than the end of this period, the program manager/division director shall submit to the agency representative the complete questionnaire, along with petitioner's most recent Performance Evaluation Report (PAR).

N.J.A.C. 4A:3-3.9(c)4 provides, in pertinent part, within 10 days of receipt of the petition, the agency representative shall forward the petition with the organizational chart to the appropriate representative of the Commission.

N.J.A.C. 4A:3-3.9(e)3i provides, if an appeal is granted by the Commission, the effective date of implementation shall be, in State service, the pay period immediately after 14 days from the date an appropriate Commission representative first received the appeal or reclassification request, or at such earlier date as directed by the Commission.

In this matter, the record indicates that the petitioner signed her PCQ and provided it to her supervisor on September 29, 2022. Thereafter, under *N.J.A.C.* 4A:3-3.9(c)3, her supervisor and program manager/division director should have completed their portions of the PCQ and forward it to the appointing authority's agency representatives within 15 days, which was October 14, 2022. Thereafter, under *N.J.A.C.* 4A:3-3.9(c)4, the agency representative should have forwarded it to this agency within 10 days, which was October 24, 2022. Further, 14 days from the date that this agency should have received the petitioner's request was November 7, 2022. Therefore, since the petitioner's appeal was granted, the effective date should have been the pay period immediately after November 7, 2022, which was November 19, 2022. See *N.J.A.C.* 4A:3-3.9(e)3i.³

² It is noted that although the appointing authority was given an opportunity, it did not respond to the petitioner's request.

³ In *In the Matter of David Bailey, et al.* (CSC, decided April 7, 2021), the Commission directed that in the future, when Agency Services receives a classification appeal after the time proscribed in *N.J.A.C.* 4A:3-3.9(c)4 due to no fault of the employee requesting the position review, and the appeal is granted, Agency Services is directed to interpret the pertinent regulations in a manner most favorable to the employee and calculate the effective date of implementation based on the latest date it should have received the petition, and not the actual date of receipt, as to determined otherwise would be to

ORDER

Therefore, it is ordered that the petitioner's request be granted, in part, and it is ordered that the effective date of the classification of Yelena Stroiteleva position to Research Scientist 3 shall be November 19, 2022. The appointing authority shall issue any additional differential back pay to the petitioner based on that effective date.

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

DECISION RENDERED BY THE
THE 10TH DAY OF April, 2023



Allison Chris Myers
Acting Chair/Chief Executive Officer
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contradict the purposes of the time frames outlined in *N.J.A.C. 4A:3-3.9, et seq.* Therefore, when a petition is granted, Agency Services is directed to look at the date that the PCQ is signed by the petitioner. If the date that it receives the PCQ is after the last date that the request should have been forwarded to this agency under the rules, Agency Services is directed to contact the appointing authority to ascertain the reasons for the delay in the submission of the petitioner's request to this agency and is directed to interpret the pertinent regulations in a manner most favorable to the employee and calculate the effective date of implementation based on the latest date it should have received the petition.