



STATE OF NEW JERSEY

In the Matter of Elizabeth Lopez,
Department of the Treasury

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

CSC Docket No. 2023-1493

Classification Appeal

ISSUED: June 12, 2023 (HS)

Elizabeth Lopez appeals the determination of the Division of Agency Services (Agency Services) that her position with the Department of the Treasury (Department) was properly classified as an Investigator 2 Taxation, Bilingual in Spanish and English. The appellant seeks an Investigator 1 Taxation, Bilingual in Spanish and English job classification in this proceeding.

The record in the present matter establishes that at the time of the request for a position review, the appellant was serving permanently in the title of Investigator 2 Taxation, Bilingual in Spanish and English. Her position was located in the Division of Taxation, Collection and Enforcement Activity, Collection A – Newark. The appellant reported to Lydia Ledee, Supervising Investigator, Taxation, Bilingual in Spanish and English. Agency Services received the request on June 23, 2022 and reviewed the appellant’s Position Classification Questionnaire (PCQ), organizational chart, Performance Assessment Review (PAR) form, and documentation from the electronic Performance Assessment Review (ePAR) system. On the PCQ, the appellant indicated, among other things, that she had been given supervisory responsibilities to assist her supervisor to oversee a team of six Investigators (25% of time); that she provided continuous training and assistance on procedures, regulations, computer mainframe operations, and the various taxes administered (10% of time); that she reviewed and assigned cases and monitored backlog (10% of time); that she was responsible for monitoring collection and enforcement activities for the team and had been given access to the various Compliance Supervisory computer functions used to review and approve teammates’ requests for Warrants of

Executions, Certificates of Debt, Warrants of Satisfaction, Demand Notices, and all notifications requiring approvals within the division-specified timeframe (20% of time); and that she was responsible for approving timesheets and job evaluations in the ePAR system (5% of time). The appellant's supervisor and program manager/division director agreed with the appellant's description of duties and the proposed title.¹ On the appellant's PAR form, supervisor assistance was listed as one of the appellant's broad job responsibilities, and this responsibility included assisting her supervisor with daily activities; assisting her supervisor with training of subordinates when directed; and completing and distributing PARs for support staff. However, the ePAR documentation indicated that the appellant was the rater for only two employees: David Chong, Investigator 3 Taxation, and Christine Baptista, Technical Assistant. Therefore, Agency Services found reclassification unwarranted because the appellant did not supervise at least three employees and ordered all supervisory duties removed.

On appeal to the Chair/Chief Executive Officer (Chair/CEO), the appellant maintains that reclassification of her position to Investigator 1 Taxation, Bilingual in Spanish and English was warranted. She insists that supervisory duties were assigned to her due to the operational needs of her group.

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 Investigator 1 Taxation, Bilingual in Spanish and English states:

Under the direction of a Supervising Investigator or other higher level supervisory official in the Division of Taxation, Department of Treasury, supervises a team or unit of subordinate investigators; may be required to conduct independent investigations of a more complex nature as they relate to the collection of tax revenues, delinquent and/or deficient taxes, abatements, and enforcement of tax statutes administered by the Division of Taxation; trains new investigators; supervises staff and work activities and signs official performance evaluations for subordinate staff; may be assigned to either a field or central office location; does related work as required.

¹ The appointing authority took no position on whether the position review request should be granted or rejected.

The definition section of the job specification for Investigator 2 Taxation, Bilingual in Spanish and English states:

Under the direction of an Investigator 1, Taxation, Supervising Investigator, Taxation or other supervisory official in the Division of Taxation, Department of the Treasury, performs investigations of a more complex nature as they relate to the collection of tax revenues, delinquent and/or deficient taxes, abatements, and enforcement of tax statutes administered by the Division of Taxation; takes the lead over investigative staff and assists in the training of subordinate investigators; may be assigned to either a field or central office location; does related work as required.

Initially, it is noted that the Investigator 1 Taxation, Bilingual in Spanish and English title is a first-level supervisory title, and supervisory experience includes responsibility for seeing that tasks assigned to subordinates are efficiently accomplished. It involves independent assignment and distribution of work to employees, with oral or written task instructions, and maintenance of the flow and quality of work within a unit in order to ensure timely and effective fulfillment of objectives. Supervisors are responsible for making available or obtaining materials, supplies, equipment, and/or plans necessary for particular tasks. They provide on-the-job training to subordinates when needed, and make employee evaluations based on their own judgment. They have the authority to recommend hiring, firing, and disciplining employees. *See In the Matter of Julie Petix* (MSB, decided January 12, 2005). *See also, In the Matter of Susan Simon and William Gardiner* (Commissioner of Personnel, decided September 10, 1997). Moreover, the Civil Service Commission (Commission) has determined that the *essential component* of supervision is the responsibility for the administration of performance evaluations for subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 16, 2001). The individual rating performances is the supervisor.

At the time of the classification review, the supervision of three employees was the requirement for a position to be considered a first-level supervisor.² However, an exception could be made if the size of the work unit supports the organizational structure. That is the case here. Although the appellant supervised two employees, there is evidence in the record that the Department had effectively determined that supervision of those employees was necessary to support the organizational structure. In this regard, supervisor assistance was listed as one of the appellant's broad job responsibilities on the appellant's PAR form, and this responsibility included assisting her supervisor with daily activities; assisting her supervisor with training of subordinates when directed; and completing and distributing PARs for support staff. On the PCQ, the appellant indicated that she had been given

² On April 13, 2023, that requirement was changed. As of that date, supervision of one or more subordinate employees is considered sufficient to be considered a first-level supervisor.

supervisory responsibilities, including PARs, to assist her supervisor to oversee the investigative team. The appellant's supervisor and program manager/division director agreed with this description and the proposed reclassification. All this only corroborates the appellant's argument on appeal that operational needs led to supervisory duties being assigned to her.

The Chair/CEO also observes that if relief were to be denied in this case, Chong and Baptista could not be supervised by the appellant since Investigator 2 Taxation, Bilingual in Spanish and English is admittedly not a supervisory title; the Department would have to reassign them under the supervision of someone else (perhaps the appellant's supervisor); and the result would be to alter the Department's organizational structure despite the evidence in the record, discussed earlier, that the Department had effectively determined that the appellant's supervision of Chong and Baptista was necessary to support its organizational structure. This is a somewhat anomalous result as the Commission has long recognized that matters of organizational structure are generally under the purview of *appointing authorities*, not the Commission. *See, e.g., In the Matter of David Kelso, et al.* (CSC, decided May 2, 2018).

Accordingly, there is a sufficient basis in this particular case to grant the appellant's requested relief.

N.J.A.C. 4A:3-3.9(e)3i states that the effective date of a position reclassification shall be the pay period immediately after 14 days from the date an appropriate Commission representative received the appeal or reclassification request, or at such earlier date as directed by the Commission. As Agency Services received the appellant's request on June 23, 2022, the appropriate effective date of reclassification is July 16, 2022.

ORDER

Therefore, it is ordered that this appeal be granted and the position of Elizabeth Lopez be reclassified to Investigator 1 Taxation, Bilingual in Spanish and English with an effective date of July 16, 2022.

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

DECISION RENDERED ON
THE 12TH DAY OF JUNE, 2023

Allison Chris Myers

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Acting Chair/Chief Executive Officer
Civil Service Commission

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