



indicated that as Investigator 1 and Administrative Analyst 4, Fiscal Management are in the same ERG, primary-level supervisor, supervisory duties over the Investigator 1 should be removed to correct the reporting relationship.

On appeal, the appellant argues that his Investigator 1 is a second-level supervisory employee, for whom he was responsible for formulating and evaluating his Performance Assessment Reviews (PARs) the entire time his appeal was under review with the Commission. He states that he still supervises this individual, as those duties were not removed by the appointing authority.

Additionally, on the original Table of Organization there is a Government Representative 1, who is informally titled as a Deputy Executive Director or Collections Specialist, reporting directly to the Chief Financial Officer. It is noted that this title is not considered to be a managerial title. The appellant submits a different Table of Organization wherein this person reports to the Investigator 1. Although the appellant did not indicate on his PCQ that he supervised the Government Representative 1, on appeal he states that he has had overall supervisory responsibility of this person since July 2019, and that the reporting relationship makes the Investigator 1 a second-level supervisor. It is noted that the Government Representative 1 does not have supervisory duties.

The appellant argues that he meets the experience requirements for the requested title, and that he has been supervising the Investigator 1 since September 2016. He argues that the prior supervisor of the Fingerprinting Section (which consists of one clerical employee, an Agency Services Representative 4), was a second-level supervisor, Supervisor of Licensing Banking and Insurance (S27) and the Collections Section used to be supervised by a Supervisor of Investigations (S28). The appellant provides some duties from his PAR supporting his argument that his duties match those of the job definition and examples of work for the requested title.

## CONCLUSION

*N.J.A.C.* 4A:3-3.9(e) states that appeals from the decision of the Commission representative to the Civil Service Commission ... may be made by an employee, authorized employee representative, or local appointing authority. The appeal shall be submitted in writing within 20 days of receipt of the decision letter and include 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. When new information and/or argument is presented, the appeal may be remanded to the prior level.

The definition section of the job specification for the title Administrative Analyst 4, Fiscal Management states:

Under general supervision of a supervisory official in the fiscal management areas in a State department or agency, coordinates and supervises work activities of Administrative Analysts, Fiscal Management of lower grade or other subordinate staff engaged in/responsible for fiscal management activities in planning and conducting management, statistical, organizational, fiscal, performance, and budget analyses of department and/or division programs, and where alternative programs are needed makes evaluations and recommendations as required; supervises staff and work activities; prepares and signs official performance evaluations for subordinate staff; does other related duties as required.

The definition section of the job specification for the title Supervising Administrative Analyst states:

Under general supervision of a supervisory official in a State department, directs the review, analysis, and appraisal of administrative procedures/policies, organizational structure, and performance for a small State department, large division, or agency, to improve efficiency/effectiveness of operations of the organizational unit; supervises subordinate administrative analysts; has charge of work concerned with data processing, administrative practices, budget, and/or other operational studies of the department/agency; does other related duties as required.

First, in making classification determinations, emphasis is placed on the definition section of the job specification 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. The outcome of position classification is not to provide a career path to the incumbents, but rather is to ensure that the position is classified in the most appropriate title available within the State's classification plan.<sup>1</sup>

Next, Agency Services found that the appellant's position was properly classified as an Administrative Analyst 4, Fiscal Management on the basis that he is not performing the duties of a manager, *i.e.*, he is not supervising a second-level supervisor. This is not to say that the remaining duties match the definition of the requested title, but first the reporting relationship must be addressed.

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<sup>1</sup> See *In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005).

As to the reporting relationship, the appellant's reliance on supervision of the Government Representative 1 is misplaced. First, it was not presented to Agency Services that the appellant supervised the Government Representative 1, and the Table of Organization shows that individual as a direct report to the Chief Financial Officer, the appellant's supervisor. The appellant's revised Table of Organization will not be considered as it constitutes a new or different assignment after Agency Service's determination was issued on November 22, 2019. The appellant states that he was responsible for the overall supervision of this individual from September 2016 to May 2017, and since July 2019. He did not include this subordinate on his PCQ, which he signed in January 2019, and therefore, this assignment is new information that was not considered at the prior level.

Even so, if the Government Representative 1 reports to the Investigator 1, then the Investigator 1 is a primary-level supervisor, not a second-level supervisor as the appellant suggests. It is noted that the individual rating performances is the supervisor, regardless of who is assigning duties or directing activities. The Civil Service 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 supervision of three non-supervisory individuals is the requirement for a position to be considered a primary-level supervisor. Effective April 19, 2017, the Commission found that Agency Services has determined that the standard required to classify titles assigned to the primary level supervisory employee relations group is that position must supervise three or more lower-level employees, including the preparation and signing of their PARs. *See In the Matter of Rosemary Lynne Gash* (CSC, decided April 19, 2017). There is nothing in the record establishing that the appellant provided evidence that he was supervising a second-level supervisor at time of Agency Services' review. Based on reporting relationships, the appellant is clearly not performing duties at the level of Supervising Administrative Analyst.

In this case, the appointing authority is allowing a first-level supervisor to supervise another first-level supervisor. With that said, the organizational structure of the unit needs to be addressed. Since the Investigator 1 title is in the "R" ERG, this position must be reassigned. It is noted that difficulty in developing an appropriate organization is not an indication that Agency Service's determination is improper. The appellant did not specify if the Investigator 1 was doing the PAR of the Government Representative 1. If the appointing authority denies someone the responsibility of formally evaluating subordinate employees, it should refrain from assigning the typical work of a supervisor. This includes assigning and reviewing work, providing input on evaluations, and training. Those duties and responsibilities belong to the appellant's supervisor, if that person is still the individual completing the PAR of the Government Representative 1. If the Investigator 1 is doing the PAR of the Government Representative 1, the entire issue will be removed upon reassignment of the Investigator 1. Following this, the

Department of Banking and Insurance is directed to ensure that **any** employee in a primary-level supervisory title is currently assigned appropriate supervisory duties as described above.

Lastly, issues such as the historical organization of the work unit is not to be considered. It is important to note that the foundation of position classification, as practiced in New Jersey, is the determination of duties and responsibilities being performed at a given point in time as verified by this agency through an audit or other formal study. Classification reviews are based on a current review of assigned duties and any remedy derived therefrom is prospective in nature since duties which may have been performed in the past or which may be performed in the future cannot be reviewed or verified. A classification appeal cannot be based solely on a comparison to the duties of another position, *especially if that position is misclassified*. Thus, the fact that some time ago the appellant's predecessor may have been assigned to second-level supervisory titles does not establish that the appellant's position is misclassified.

### ORDER

Therefore, the position of Marc Cicero was properly classified as Administrative Analyst 4, Fiscal Management. It is further ordered that upon receipt of this decision, the Department of Banking and Insurance shall remove the responsibility for completing performance evaluations for the Investigator 1 from this position.

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

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 15<sup>th</sup> DAY OF JANUARY, 2020



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