



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Felix Acevedo,
Department of Agriculture

CSC Docket No. 2017-816

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Classification Appeal

ISSUED: January 30, 2020 (RE)

Felix Acevedo appeals the determination of the Division of Agency Services (Agency Services) that his position with the Department of Agriculture is properly classified as Agricultural Products Agent 1. The appellant seeks an Agricultural Products Agent 2 classification in this proceeding.

The appellant was regularly appointed to the title of Agricultural Products Agent 1¹ on January 24, 1994. His position is located in the Department of Agriculture's Division of Marketing and Development (Dairy Commodity Inspection & Grading). He reports to a Government Representative 1 and has no supervisory responsibility. Agency Services performed a detailed analysis of the appellant's Position Classification Questionnaire (PCQ) and other materials submitted, and determined that his position was properly classified as Agricultural Products Agent 1.

On appeal to the Civil Service Commission (Commission), the appellant submits a revised PCQ, reducing his functions from seven to four. On both PCQs, he lists numerous duties under each function. The appellant argues that prior employees who did the duties that he does now were Agricultural Products Agent 2s, and he explains some of those duties.

1 On September 3, 2016 the Commission reversed the title series. Currently, 1 is the lowest in the series.

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 Agricultural Products Agent 2, states:

Under general supervision of a supervisor in the New Jersey Department of Agriculture, inspects, certifies, and grades a variety of agricultural products; collects official samples of agricultural production materials; conducts surveys of prices, product dating, and required licenses of agricultural products; trains Agricultural Product Agents 1's and Agricultural Product Agent Trainees; performs routine and special investigations to enforce the New Jersey Milk Control Act, Chapter 274, P.L. 1941, as amended; explains the provisions of the law and assists milk dealers, processors, and retail merchants in milk marketing problems; monitors inventory at the recipient agency and reviews storage and handling of USDA Foods to minimize losses; provide assistance to recipient agencies with effective utilization of entitlement; evaluates, responds and follows-up on USDA food complaints and food recalls; inspects Department of Defense (DOD) fresh fruit deliveries to the warehouses; inspects warehouse receipts; processes loss claims for short and damaged foods; judges foods unfit for human consumption; conducts annual warehouse physical inventories, evaluates commercial processor storage and sanitary conditions, and makes recommendations on vendor contract acceptability; inspects storage and use of federal foods distributed to state/county/municipal agencies throughout New Jersey to ensure compliance with US Department of Agriculture usage requirements; does other related duties as required.

The definition section of the job specification for Agricultural Products Agent 1, states:

Under limited supervision in the New Jersey Department of Agriculture, inspects, certifies, and grades designated agricultural products; collects official samples of agricultural production materials; conducts surveys of prices, product dating, and required license for agricultural products; performs routine and special investigations to enforce the New Jersey Milk Control Act, Chapter 274, P.L. 1941, as

amended; explains the provisions of the law and assists milk dealers, processors, and retail merchants in milk marketing problems; monitors inventory at the recipient agency and reviews storage and handling of USDA Foods to minimize losses; assists recipient agencies with effective utilization of entitlement; reviews compliance with the State Food Purchase Program; does the inspection and required follow-up accountability reviews of all school recipient agencies as well as needy agencies under The Emergency Food Assistance Program (TEFAP) to ensure compliance with federal standards; explains participation requirements to prospective using agencies; does related work as required.

In the instant matter, Agency Services found that the appellant's position was properly classified as Agricultural Products Agent 1. Agricultural Products Agent 2 is clearly a lead worker title. An incumbent in a leadership role refers to persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or lower level than themselves and perform the same kind of work as that performed by the group being led. *See In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005). Duties and responsibilities would include training, assigning and reviewing work of other employees on a *regular and recurring basis*, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. Acting as a representative or being the most knowledgeable in an area does not define a position as a lead worker. Being a lead worker involves mentoring others in work of the title series. In this case, the appellant indicated on his PCQ that only 5% of his time was spent at taking the lead over trainees by presenting training and refresher courses and other training issues. Therefore, his position does not primarily perform lead worker duties.

Next, as noted above, information which was not presented at the prior level of appeal shall not be considered. It is noted that the second PCQ was more nebulous than the first, with a reduction in functions, and more duties listed. For example, one function "dairy" performed 80% of the time, had 20 duties listed. By completing the PCQ in this manner, the actual amount of time for each duty is not provided and cannot be quantified. In any event, the first PCQ indicated that "dairy" involved 55% of his time, a significant difference. If the appellant believes that his duties significantly changed, he can request another classification review.

However, 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. Thus, 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 cannot be reviewed or verified. The appellant was not in an advisory role at the time of the audit and minimal training duties alone does not warrant an Agricultural Products Agent 2 classification. *See In the Matter of Loretta Creggett* (CSC, decided August 1, 2018) (The Commission found that the appellant's training duties, without the responsibility of assigning and reviewing work of other employees on a regular and recurring basis, did not establish that the appellant was a lead worker).

Next, a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. *See In the Matter of Dennis Stover*, Docket No. A-5011-96T1 (App. Div. October 3, 1998), *affirming In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided February 20, 1997). *See also, In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). The remedy for misclassification of another position is not to perpetuate the misuse of the higher title by reclassifying the appellant's position to that title, but rather, to review the position classifications of the positions encumbered by the named employees to ensure that they are properly classified. *See In the Matter of Stephen Berezny* (CSC, decided July 27, 2011).

Therefore, the proper classification of this position is Agricultural Products Agent 1.

ORDER

Therefore, the position of Felix Acevedo is properly classified as Agricultural Products Agent 1.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 29th DAY OF JANUARY, 2020



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