



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Wayne Collins,  
Office of Information Technology

CSC Docket No. 2022-538

Classification Appeal

**ISSUED: NOVEMBER 1, 2021 (RE)**

Wayne Collins appeals the decision of the Division of Agency Services (Agency Services) that the proper classification of his position with the Office of Information Technology is Technician, Management Information Systems (MIS). He seeks a classification of Technical Support Specialist 1.

By way of background, in a Position Classification Questionnaire (PCQ) received by Agency Services, the appellant submitted a request for classification review arguing that his duties were not consistent with his permanent title of Technical Assistant, MIS. In support of that request, the PCQ detailed the duties performed in the position. Agency Services reviewed and analyzed the PCQ, as well as other information and documentation provided and verified it in a telephone audit. The appellant is assigned to the Enterprise Service Desk (ESD), IT Service Management Unit of the Office of Information Technology, reports to a Supervisor IT Helpdesk, and has no supervisory responsibility. In its August 20, 2021 decision, Agency Services determined that the duties performed were consistent with the definition and examples of work included in the job specification for Technician, MIS.

On appeal, the appellant explains that the ESD needs to be staffed around the clock every day of the week. He argues that the Technician, MIS is designated either as a 40 hour work week (or as NE) and he works 35 hours per week. He claims that he works a fixed work week, consistently regular, under administrative control and determined by the direction of a supervisor rather than the nature of the service, and employees have minimal discretion over their work schedule. He states that schedules are posted in advance and employees are asked to volunteer

for overtime shifts, and overtime is equalized, frequent, and necessary to ensure the operation of the unit. He continues that the hours of work conform to a standard pattern of work time for a typical location, employees work under direct supervision, and his regular title does not have variable or irregular work hours. As such, he argues that the use of this title, as NE rather than 40 hour work week is inconsistent with operational necessities and creates a disincentive to work overtime. Thus, the classification of his position to Technician, MIS from Technical Assistant, MIS entails a financial loss for him.

Additionally, the appellant states that he has reviewed and rewritten 15 Standard Operating Procedures (SOPs), takes the lead on any hardware related issues and troubleshoot operating system issues and printers. He provides some of his qualifications that align with the knowledge, skills and abilities section of the job specification of the requested title. He states that he does not work in a mainframe environment but in a helpdesk, four Technical Support Specialist 1s work the same shift and therefore are not lead workers, and no one is required to configure network switches.

## 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:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1 provide, in pertinent part, that employees in NE titles are entitled to overtime compensation at the rate of one and one-half times their regular rate of pay “for time worked in excess of 40 hours per week” with the approval of the Civil Service Commission or designee. However, per *N.J.A.C.* 4A:3-5.3(d)2, for work performed in excess of 35 hours per week, up to 40 hours, employees in NE titles are only entitled to comparable amounts of time off, not cash overtime compensation.

The definition section of the job specification for Technician, MIS states:

Under supervision assigned to a program or operational unit having responsibility for a specific, existing information processing system operation, implements and monitors MIS used to compile, store, retrieve, and process varied types of financial, program, or other information unique to the unit; operates computers and related equipment controls; analyzes and troubleshoots information processing program or system error conditions; updates and analyzes application software problems; performs system maintenance; **or in a**

**client/server environment, installs hardware and software on servers or workstations;** does other related duties. [Emphasis added]

The definition section of the job specification for Technical Support Specialist 1 states:

Under general supervision, as a lead worker in a mainframe environment, provides guidance and direct hands on support to a work shift of the Data Processing Operations unit in resolving production problems from verbal or written problem reports; consults with, and assists network management and systems programming staff in the diagnosis and resolution of complex problems; monitors and allocates space or direct access storage devices; uses and guides the use of productivity aids in implementing and maintaining software, applications, and systems libraries; OR, as a lead worker in a client/server environment, provides direct support to end users and/or guidance to help desk and/or desktop technical personnel in the provision of direct support; installs and guides the installation of hardware and software on servers and/or workstations; does other related duties.

First, as to overtime, an NE designation is used for non-limited, non-exempt titles which are subject to the provisions of the Fair Labor Standards Act, (29 U.S.C. 201 *et seq.*) (FLSA). *See N.J.A.C. 4A:6-2.3(b)3.* Each title has only one class code, but may have two different workweek designations. The Technician, MIS (class code 16) has a 40-hour fixed work week and the NE workweek designations. However, the NE is compensated one salary range below the 40-hour work week. In this regard, fixed workweek 35-hour titles are compensated two ranges below the 40-hour fixed workweek titles. Moreover, employees designated in NE titles are required to work *at least* 35 hours per week, with occasional requirements for a longer workweek to complete projects or assignments. Thus, while an employee in an NE title may generally work at least 35 hours a week, if he or she works more than 35 hours, but less than 40 hours, they are not entitled to additional cash compensation for these hours. The base salary for all NE titles contemplate that an employee could potentially work up to 40 hours. The additional salary range above a fixed workweek 35-hour title that is included in NE titles is essentially designed to compensate the NE employee for potential work suffered up to 40 hours. However, since NE titles are subject the FLSA and the New Jersey Wage and Hour law, any work performed over 40 hours is compensated at one and one-half times the employees regular rate.

In any event, potential overtime compensation issues is not a basis on which to classify a position. It is long-standing policy that upon review of a request for

position classification, when it is found that the primary focus of the position most closely matches the job definition, and a majority of an incumbent's duties and responsibilities are related to the and examples of work found in a particular job specification, that title is deemed the appropriate title for the position. Further, how well or efficiently an employee does his or her job, length of service, and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees, are classified.

Next, the Technical Support Specialist 1 title is a lead worker title. Taking the lead is the distinguishing characteristic that has been traditionally utilized in considering whether a position should be classified at the requested title. A leadership role refers to those 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 a lower level than themselves. 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. The definition of lead worker does not include assisting staff from other units or agencies, or being responsible for or being the sole expert in an area, or dispensing recommendations, advice and information to others. In *In the Matter of Elizabeth Dowd, et al.* (MSB, decided February 9, 2005), it was noted that lead worker duties are akin to those of a supervisor in many respects, absent the responsibility for formal performance evaluations that can lead to the effective hiring, firing, or demotion of a subordinate. Intermittently taking charge in the absence of the regular supervisor, instructing staff, training, and ensuring performance of assigned tasks, without the responsibility for employee performance evaluations would be considered duties of a lead worker. See also, *In the Matter of Diane Epps and Lisa Sallad* (MSB, decided May 15, 2002) and *In the Matter of Martha Grimm* (MSB, decided August 14, 2001). It also includes assigning and reviewing the work of others, and guiding people, specifically, coworkers involved in the same type of work. The record does not establish that the appellant functions as a lead worker over employees performing the same kind of work on a consistent, daily basis, and the information that he provides on appeal also does not establish that he is taking the lead over coworkers.

Lastly 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 Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). See also, *In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A-5011-96T1 (App. Div. October 3, 1998). Nevertheless, *N.J.S.A. 11a:3-1* and *N.J.A.C. 4a:3-3.1(1)* provide that each position in the career and unclassified services shall be assigned by the Commission to a job

title. Moreover, *N.J.A.C.* 4a:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. *N.J.A.C.* 4a:3-3.5(a) states that when the duties and responsibilities of a position change to the extent that they are no longer similar to the duties and responsibilities set forth in the specification, and the title is no longer appropriate, the Commission shall reclassify the position to a more appropriate title if there is one. The appellant's position stands on its own and is classified based on the duties performed. The duties performed by other individuals, whether properly or improperly classified, are irrelevant in determining the proper classification of this position. That is not to say that the positions are properly classified according to Agency Services' determination, but that the appellant cannot rely on the classification of other positions to classify his position. When an employee requests a classification review of his and her position, it is done based on the duties currently assigned and being performed in that position and not those of other positions.

### ORDER

Therefore, it is ordered that this appeal be denied.

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

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 27<sup>TH</sup> DAY OF OCTOBER, 2021




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