

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

MICHAEL FAIOLA,
Appellant

v.

Case No.: C-12-143

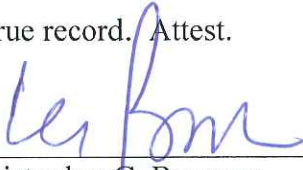
**DEPARTMENT OF
STATE POLICE,**
Respondent

DECISION

The Civil Service Commission (Commission) voted at an executive session on January 10, 2013 to acknowledge receipt of the Recommended Decision of the Administrative Law Magistrate dated November 16, 2012. After careful review and consideration, the Commission voted to adopt the findings of fact and the Recommended Decision of the Magistrate therein. A copy of the Magistrate's Recommended Decision is enclosed herewith. The Appellant's appeal is hereby *dismissed*.

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein, Commissioners) on January 10, 2013.

A true record. Attest.



Christopher C. Bowman
Chairman

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(I), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision.

Notice to:
Michael Faiola (Appellant)
Shaun Givhan (for Respondent)
Richard C. Heidlage, Esq. (Chief Administrative Magistrate, DALA)



THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF ADMINISTRATIVE LAW APPEALS

98 NORTH WASHINGTON STREET, 4TH FLOOR

BOSTON, MA 02114

RICHARD C. HEIDLAGE
CHIEF ADMINISTRATIVE MAGISTRATE

TEL: 617-727-7060
FAX: 617-727-7248

November 16, 2012

Christopher C. Bowman, Chairman
Civil Service Commission
One Ashburton Place, Room 503
Boston, MA 02108

**Re: Michael Faiola v. Department of State Police
C-12-43; DALA Docket No. CS-12-346**

Dear Chairman Bowman:

Enclosed please find the Recommended Decision that is being issued today. The parties are advised that, pursuant to 801 CMR 1.01(11)(c)(1), they have thirty days to file written objections to the decision with the Civil Service Commission. The written objections may be accompanied by supporting briefs.

If either party files written objections to the recommended decision, the opposing party may file a response to the objections within 20 days of receipt of a copy of the objections

Sincerely,


Richard C. Heidlage, Esq.
Chief Administrative Magistrate

Enclosure

cc: Michael Faiola
Shaun Givhan

RECEIVED
2012 NOV 21 A 10:36
COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

Michael Faiola,
Petitioner

v.

Docket Nos. C-12-143

CS-12-346

DATED: November 16, 2012

Massachusetts Department of
State Police,
Appointing Authority

Appearance for Appellant:

Pro Se

51 Westview Road
Worcester, MA 01602

Appearance for Appointing Authority:

Shaun Givhan
Massachusetts Department of State Police
Human Resources Director
470 Worcester Road
Framingham, MA 01702

Administrative Magistrate:

Judithann Burke

SUMMARY OF DECISION

The Petitioner has not met his burden of proving that his job classification as Personnel Officer II is erroneous; or, that he is entitled to be classified as a Program Coordinator III. The decision of the Human Resources Division is affirmed.

RECOMMENDED DECISION

The Appellant, Michael Faiola, is appealing from the March 16, 2012 decision

RECEIVED
2012 NOV 21 A 10:36
COMMISSIONER OF MASS
CIVIL SERVICE COMMISSION

of the Human Resources Division (HRD) that Personnel Officer II is the most appropriate job classification for his position. (Exhibits 1 and 2). He had requested that he be reclassified as a Program Coordinator III. (Exhibits 1). The Appellant timely filed his appeal pursuant to M.G.L. c. 30 s. 49. (*Id.*). A hearing was held on July 13, 2012 at the offices of the Division of Administrative Law Appeals, One Congress Street, 11th fl, Boston, MA.

At the hearing, twenty-five (25) exhibits were marked. The Appointing Authority submitted a "Summary of the Defendant's Contentions." (Attachment A.) The Appellant testified in his own behalf. The Appointing Authority was represented by Massachusetts State Police Human Resources Director Shaun Givhan, who also provided testimony. Both parties stated their arguments for the record. The hearing was digitally recorded..

FINDINGS OF FACT

Based upon the testimony and documents submitted at the hearing in the above-entitled matter, I hereby render the following findings of fact:

1. The Appellant, Michael Faiola, 36 y.o.a., has been an employee for the Massachusetts State Police Human Resources Section since April 21, 2008. He had previously worked in the State Police Payroll Unit since 2002. His position in the Human Resources Section is Personnel Officer II (Job Grade 13, Unit 6). (Givhan and Appellant Testimony and Attachment A.)

2. The Department of Personnel Administration (now HRD) Classification Specifications for the Personnel Officer Series, as approved on July 1, 1987, provide in pertinent part:

III. ORGANIZATIONAL LEVELS:

Personnel Officer I is the entry-level supervisory job in this series.

Personnel Officer II is the second level supervisory job in this series.

IV. EXAMPLES OF DUTIES COMMON TO ALL LEVELS IN SERIES:

1. Performs personnel functions for an assigned agency such as planning recruitment activities; screening employment applications and resumes to determine if a candidate meets position requirements; interviewing applicants for employment to match qualifications with job requirements; performing background checks on applicants; making hiring or job placement decisions subject to the approval of the appointing authority; conducting interviews to determine reasons for termination; and reviewing personnel actions for compliance with affirmative action guidelines.
2. Provides information to agency staff regarding promotional and educational opportunities, civil service qualification lists, disciplinary action, life insurance, savings plans, sick leave, vacation, retirement and death benefits in order to ensure awareness of available employee benefits.
3. Acquires information regarding job duties, responsibilities and requirements, position description, performance criteria, and other job analysis information by interviewing and conferring with recruitment personnel and agency employees, by distributing and processing job analysis questionnaires and by monitoring operations in order to become familiar with the duties and requirements of agency positions and to identify training and recruitment needs..
4. Explains purposes and procedures of job analysis, performance appraisals and state selection techniques to employees, supervisors, administrators, and appointing authorities in order to keep agency personnel informed of personnel matters and facilitate implementation of new procedures.

5. Mediates grievances by seeking resolution of employee dissatisfaction prior to formal grievance or disciplinary action; advises superiors and administrative staff on matters involving employee grievances; represents the agency in grievance proceedings and monitors these proceedings; advises the appointing authority or other officials on administrative action to be taken in disciplinary cases; confers with employees and supervisors concerning performance evaluation during probationary periods and recommends retention or dismissal of employees to resolve labor grievances and management complaints.
6. Reviews requests for personnel actions from agency managers and staff for recruitment rates, emergency appointments, in-lieu appointments, excess quota positions, new classifications or positions and reallocations or upgradings by determining compliance with established laws, regulations, policies and procedures in order to help managers and supervisors to solve staffing needs or manpower utilization problems and to recommend approval to agency appointing authorities.
7. Writes correspondence or memoranda in response to inquiries regarding personnel action forms, verification of employment, length of service, prior service data and other authorized personnel information; drafts personnel policies, procedures or guidelines for higher approval and new standard operating procedures to increase employee efficiency.
8. Verified the interpretation and implementation of Civil Service rules and regulations by conferring with Department of Personnel Administration staff regarding transfers, seniority, employee status and leaves of absence and by following up on the status of personnel action forms and work in progress to ensure compliance with Civil Service rules and regulations.
9. Processes requests for promotion, transfer, leaves of absence and account transfers; reviews information on personnel budgets, spending plans and reports dealing with such matters as minority hiring; and prepares, compiles and reviews forms and substantiating documents, statistics and spending plans in order to ensure compliance with rules, regulations, and contractual agreements and to expedite flow of work between agencies or units.

10. Seeks resolution of alleged unfair labor practices prior to formal hearing through consultation with union and management officials and their legal representatives to avoid court conflict.

11. Performs related duties such as reviewing, updating, maintaining and inspecting printouts, records, files, (including attendance records, leave records, position control cards, personnel folders, and application files), manuals and documents; gathering records, documents and other relevant information for use in court cases and hearings or for use in background checks; attending and conducting meetings, training and orientation sessions; and, posting or circulating examination notices, position vacancies, or other pertinent Civil Service or personnel information.

IV. DIFFERENCES BETWEEN LEVELS IN SERIES:

Personnel Officer II:

Incumbents of positions at this level or higher also:

1. Present policy recommendations to agency management.
2. Approve annual objectives and plans of staff.
3. Draft or develop personnel programs and policies for the agency.

V. RELATIONSHIPS WITH OTHERS

Major work contacts are with job applicants, recruitment personnel, agency employees, appointing authorities, Department of Personnel Administration staff, labor union officials and agency management staff.

VII. SUPERVISION RECEIVED:

Personnel Officer II:

Incumbents of positions at this level receive administrative supervision from employees of higher grade who review work for adherence to broad policy guidelines.

VIII. SUPERVISION EXERCISED:

Personnel Officer II:

Incumbents of positions at this level exercise direct supervision (i.e., not through an intermediate supervisor), assign work to and review the performance of 1-5 Personnel Officers or other professional personnel; and indirect supervision (i.e., through an intermediate supervisor) over 1-5 clerical personnel.

(Exhibit 6)

3. The Department of Personnel Administration's (now HRD) classification specifications for the Program Coordinator series provide, in pertinent part:

II. SUMMARY OF SERIES:

Incumbents of positions in this series coordinate and monitor assigned program activities; review and analyze data concerning agency programs; provide technical assistance and advice to agency personnel and other; respond to inquiries; maintain liaison with various agencies; and perform related work as required.

The basic purpose of this work is to coordinate, monitor, develop and implement programs for an assigned agency.

IV. EXAMPLES OF DUTIES COMMON TO ALL LEVELS IN SERIES:

1. Coordinates and monitors assigned program activities in order to ensure effective operations and compliance with established standards.
2. Reviews and analyzes data concerning assigned agency programs in order to determine progress and effectiveness, to make recommendations for changes in procedures, guidelines, etc. and to devise methods of accomplishing program objectives.
3. Provides technical assistance and advice to agency personnel and others concerning assigned programs in order to exchange information, resolve problems and to ensure compliance with established policies, procedures and standards.
4. Responds to inquiries from agency staff and others in order to provide information concerning assigned agency programs.

5. Maintains liaison with various private, local, state, and federal agencies and others in order to exchange information and/or to resolve problems.
6. Performs related duties such as attending meetings and conferences; maintaining records; and preparing reports.

V. DIFFERENCES BETWEEN LEVELS IN SERIES:

Program Coordinator II:

Incumbents of positions at this level and higher also:

1. Provide on-the-job training and orientation for employees.
2. Develop and implement procedures and guidelines to accomplish assigned agency program objectives and goals.
3. Review reports, memoranda, etc. for completeness, accuracy and content.
4. Confer with management staff and other agency personnel in order to determine program requirements and availability of resources and to develop the criteria and standards for program evaluation.
5. Evaluate program activities in order to determine progress and effectiveness and to make recommendations concerning changes as needed.

Program Coordinator III:

Incumbents of positions at this level also:

1. Develop and implement standards to be used in program monitoring and/or evaluation.
2. Oversee and monitor activities of the assigned unit.
3. Confer with management staff and others in order to provide information concerning program implementation, evaluation and monitoring and to define the purpose and scope of proposed programs.

4. Processes all incoming employment insurance claims from the Division of Unemployment Assistance and assist labor relations representatives with preparation for administrative hearings.
5. Assists in the coordination of the process for annual enrollment in the State Health Care Spending Account and Dependent Care Assistance Programs; Provides information during open enrollment period and administration of programs at the direction of the Human Resource Director.
6. Administers annual Commonwealth Employees Charitable Campaign (COMECC) for agency head.
7. Contributes to Human Resources related publications and reports such as biennial Affirmative Action and Diversity Plans by researching, writing, and editing documents such as the Human Resource Division best practices for recruitment and retention as well as shared service hiring practices. Presents draft documents to Human Resource Director or designees for review and approval.
8. Assists with the development and administration of presentations on Human Resources topics. Presents and coordinates training modules on Human Resources related matters.
9. Operates as a liaison to the Payroll Section for benefits, time and attendance, and compensation for Human Resources.
10. Provides direction and guidance for junior employees regarding hiring and selection including screening employment applications and resumes to determine if a candidate meets position requirements; interviews applicants for employment to match qualifications with job requirements; makes hiring or job placement decisions subject to approval of Human Resource Director; Reviews hiring actions for compliance with affirmative action guidelines.
11. Maintains benefits folders in personnel files.
12. Backup administration of military time buyback, retirement and reemployment processes.
13. Backup coordinator of all non-medical leaves (i.e. non-FMLA or ELIB).
13. (*sic*) serves as backup Group Insurance Coordinator, including transfer of benefits to and from the Massachusetts Turnpike Authority, the Massachusetts Port Authority and processes dental benefits for all Individuals promoted to positions as Commissioned Officers and Managers.
14. Backs up and supports the Benefits Administrator in the processing of Long Term Disability (LTD) applications.

(Exhibit 1.)

7. While the incumbent Program Coordinator III interacts with federal and state employees, the Appellant interacts with state employees. His primary role is that of GIC Coordinator. (Givhan Testimony and Exhibits 15-21.)

8. The Appellant has minimal involvement in the retirement of employees pursuant to G.L. c. 32. These issues are handled by Ms. Turner, the Program Coordinator III, Ms. Givhan, the Human Resource Director, or John F. Flynn, Chief Administrative Officer and Administrator XI. (*Id.* and Exhibit 10.)

9. The Appellant is not involved in any disability claims or G.L. c. 32 § 8 reviews. (Givhan Testimony.)

10. The Appellant is not versed in the Code of Federal Regulations nor does he review military orders or do related research. The Program Coordinator III performs these functions. (*Id.*)

11. The Appellant does not sit in on policy meetings. The Program Coordinator III performs this function. (*Id.*)

12. The Appellant has not been assigned duties relative to coordinating monitoring or evaluating agency programs in the manner called for by the Commonwealth's Classification Specification-Program Coordinator Series. (Exhibit 9, Givhan Testimony and Attachment A.)

10. On April 20, 2010, following the Appellant's appeal from the preliminary recommendation, Ms. Wagner informed her that the Appointing Authority had determined that the duties she performed did not warrant reallocation of her position. (Exhibit 3.)

11. On August 4, 2010, after the Appellant's appeal to the Human Resources Division (HRD), the Appellant was informed that the HRD had concluded that the Accountant II classification covered the duties that she was performing. (Exhibit 4.)

CONCLUSION AND RECOMMENDATION

After a careful review of the testimonial and documentary evidence in this case, I have concluded that the Appellant is not entitled to prevail in this appeal. He has not proven by a preponderance of the evidence that he has been improperly classified as a Personnel Officer II.

The record reflects that the Appellant is a hardworking, well-respected, intelligent and capable Personnel Officer who works well with co-employees of all classification levels as part of the Department of State Police Human Resource staff. He does not shy away from covering those tasks formerly performed by retired Human Resources employees or for the Program Coordinator on very limited occasions. However, he has failed to demonstrate that he supervises employees of a higher grade from other departments or that he directly supervises any persons other than the two administrative staff members whose names appear under his on the organizational chart. Further, he does not set policy or manage entire programs within the Human Resources Department, nor does he perform extensive work with federal agencies, all part of the criteria necessary to the Program Coordinator III position.

The Appointing Authority and the HRD correctly determined that the Appellant's duties are most closely aligned with the duties of a Personnel Officer II. He confers with agency personnel and state employees. His primary role is that of GIC Coordinator.

In conclusion, I recommend that the decision of the Appointing Authority denying the Appellant's request to be classified as a Program Coordinator III by the Human Resources Department be affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS,

BY:

A handwritten signature in cursive script, appearing to read "Judithann Burke".

Judithann Burke

Administrative Magistrate

DATED: November 16, 2012