

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

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

OLIVIA FARINHA,
Appellant

v.

C-09-190

UNIVERSITY OF MASSACHUSETTS
AT DARTMOUTH,
Respondent

Appellant's Attorney:

Michael J. Maccaro, Esq.
AFSCME Council 93
8 Beacon Street
Boston, MA 02108

Respondent's Attorney:

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Boston, MA 02110

Commissioner:

Christopher C. Bowman

DECISION

Pursuant to the provisions of G.L. c. 30, s. 49, the Appellant, Olivia Farinha (hereinafter "Appellant" or "Farinha"), is appealing the March 10, 2009 decision of the Human Resources Division (hereinafter "HRD") denying her request for reclassification from the position of Clerk IV (Grade 13) to the position of Administrative Assistant I (Grade 15). The appeal was filed on April 7, 2009 and a hearing was held on July 7,

2009 at the offices of the Civil Service Commission (hereinafter “Commission”). The hearing was digitally recorded onto one (1) CD which was later provided to the parties.

FINDINGS OF FACT:

Seven (7) exhibits were entered into evidence at the hearing and I left the record open for the Appointing Authority to submit job descriptions regarding other employees referenced at the hearing. Those documents were submitted to the Commission and marked as Exhibit 8. Based on the documents submitted into evidence and the testimony of:

For the Appointing Authority:

- Michelle Roderick, Deputy Director of Human Resources, UMASS Dartmouth;

For the Appellant:

- Marguerite Zarillo, Associate Professor, Engineering and Physics; UMASS Dartmouth;
- Olivia Farinha, Appellant;

I make the following findings of fact:

1. The Appellant is employed and classified as a Clerk IV in the Physics Department at the University of Massachusetts at Dartmouth (hereinafter “University”, “UMASS Dartmouth” or “Appointing Authority”). (Exhibit 1)
2. The Appellant has been employed full-time by the University since September 5, 2006. (Exhibit 1)
3. On October 8, 2008, the Appellant appealed her classification as Clerk IV to the University’s Division of Human Resources, requesting that she be classified as an Administrative Assistant I. (Exhibit 1)

4. The request for reclassification was denied by UMASS Dartmouth on January 20, 2009. The January 20, 2009 denial letter stated in relevant part:

“The information revealed during this process indicates that your performance is outstanding and the Chair and Physics Department are very happy with you. Nevertheless, your present title / classification is consistent with other Clerk IV’s at the University of Massachusetts Dartmouth performing similar duties. No evidence was presented at the Appeal Hearing which indicated you perform duties generally associated with the Administrative Assistant I classification on this campus.” (Exhibit 1)
5. There are approximately 36 positions that provide support to academic departments at UMASS Dartmouth. These 36 positions are allocated as follows: 4-5 as Administrative Assistant Is; 2-3 as Clerk IIIs and the remainder being Clerk IVs. There are 3-4 Administrative Secretary positions on campus, for support of higher level offices. (See Emanuello v. UMASS Dartmouth, 21 MCSR 64, 67 (2008)).
6. On February 6, 2009, the Appellant timely appealed the University’s denial of the Administrative Assistant I classification to the state’s Human Resources Division (HRD). (Exhibit 7)
7. On March 10, 2009, HRD denied the Appellant’s appeal of her classification to that agency. (Exhibit 7)
8. On April 7, 2009, the Appellant timely appealed HRD’s denial of her reclassification to the Administrative Assistant I title to the Commission. (Exhibit 2)
9. The Classification Specification issued in 1987 states that a Clerk IV is “the first-level supervisory job in this series or, based on assignment, may be the second-level supervisory job in this series”. (Exhibit 4)

10. According to the above-referenced Classification Specification, employees classified as a Clerk IV are expected to: explain provisions and contents of various documents or programs including effective rates, options, eligibility, benefits, etc. to employees and others; interview applicants for clerical positions and make recommendations to superiors; and prepare and/or process personnel actions such as promotions, appointments, demotions, terminations, transfers and leaves of absence by recording such actions and completing forms for forwarding approval.

(Exhibit 4)

11. The core duties established by HRD in its class specification for the Administrative Assistant series are as follows: monitor assigned unit activities; confer with agency staff; maintain liaison with others; review and analyze data concerning assigned unit activities; prepare reports; respond to inquiries; compile data; and perform related work as required. (Exhibit 3)

12. Administrative Assistant I is the first-level supervisory job in the series. (Exhibit 3)

13. The Appellant does not supervise any clerical staff. She does supervise 2 – 3 student employees during the academic year. (Testimony of Appellant)

14. In her written request for reclassification, the Appellant stated that she is the “Budget / Grant Coordinator” for the Physics Department and that she is “solely responsible for the Department’s CSF budget”. The Appellant indicates that she performs this role 30% of the time. (Exhibit 1)

15. Based on the Appellant’s testimony before the Commission, I find that her duties and responsibilities are not consistent with those of a “Budget / Grant Coordinator”. The Appellant has no role in developing the budgets for grants. Rather, she provides

those responsible for preparing the grants with the necessary paper work, ensures that all of the documents are in order and then passes the grant application on to the Department Chair for review and signature. Once a grant is approved, she assigns the grant a number and tracks it on a spreadsheet. Although the Appellant testified that she reviews the budget numbers for accuracy, I do not find that this constitutes being a “Budget / Grant Coordinator” nor do I find that this constitutes the “review and *analysis* of unit activities” required of an Administrative Assistant. (Testimony of Appellant)

16. Consistent with her interview guide, the Appellant testified that another 30% of her time is spent assisting the Department Chairperson regarding such things as advising him about upcoming meetings, ordering food, reserving a meeting room and assembling folders regarding faculty appointments, promotions and contract renewals. (Exhibits 1 and 7 and Testimony of Appellant) I find that these duties are more consistent with those required of a Clerk IV including: “preparing and/or processing personnel actions such as promotions, appointments, demotions, terminations, transfers and leaves of absence by recording such actions and completing forms ...” (Exhibit 4)

17. In regard to the remaining 40% of the Appellant’s duties and responsibilities, I also find that the majority of these duties are more consistent with that of a Clerk IV than an Administrative Assistant I including assisting professors with the use of the copier and fax machine and serving as the contact person for job applicants. (Exhibits 1, 4 and 7)

18. While some duties and responsibilities of the Appellant may overlap with those required of a Clerk IV and an Administrative Assistant I, I find that the vast majority (more than 50%) of the duties and responsibilities of the Appellant are consistent with those required of a Clerk IV.
19. I also considered the testimony of Marguerite Zarillo, current Physics professor and former Chairperson of the Department and reviewed the job descriptions of the three (3) Administrative Assistant Is. I do not find that the Appellant's job duties and responsibilities are the same as those referenced in the job descriptions, including Margaret Emanuello, who was reclassified to the position of Administrative Assistant after appealing to the Commission in a separate appeal. For example, while the hearing officer in that appeal found that Emanuello reviewed and analyzed data, I have found that Ms. Farinha does not perform this critical function. (Testimony of Zarillo, Exhibit 8 and Emanuello)

CONCLUSION

After a careful review of the testimony and evidence presented in this appeal, I conclude that the decision of the Human Resources Division denying the request of Olivia Farinha to be reclassified as an Administrative Assistant I should be affirmed.

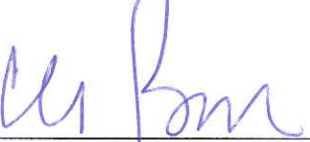
The vast majority of the 36 employees that provide support to a Department head or Chair at UMASS Dartmouth are classified as Clerk IVs. For all the reasons stated in the findings, I conclude that her duties and responsibilities are consistent with those required of a Clerk IV, as opposed to an Administrative Assistant I.

The Appellant has not met her burden of proof to demonstrate that she performs a majority of the duties of an Administrative Assistant I more than 50% of the time.

Rather, the job duties and responsibilities of the Appellant are more consistent with that of a Clerk IV.

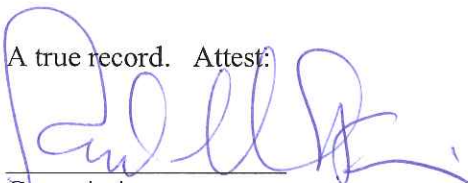
While the Appellant has not shown that she should be reclassified as an Administrative Assistant I, she appears to be a dedicated, hard-working employee who is valued for her continued contributions during her three years at UMASS Dartmouth. .

For all of the above reasons, the Appellant's appeal under Docket No. C-09-190, in which she seeks to be re-classified as an Administrative Assistant I, is hereby *dismissed*.



Christopher C. Bowman, Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Henderson, Stein and Taylor, Commissioners [Marquis – Absent]) on January 7, 2010.

A true record. Attest:


Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a 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 the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

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

Notice:
Michael Maccaro, Esq. (for Appellant)
James B. Cox,
John Marra, Esq. (HRD)