

Decision mailed: 3/11/11
Civil Service Commission JB

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

JUNE W. GUIDARA,
Appellant

C-09-284

v.

DEPARTMENT OF
TRANSITIONAL ASSISTANCE,
Respondent

Appellant:

June Guidara, *Pro Se*

Attorney for the Respondent:

Rhett Cavicci, Atty.
Executive Office of Health and
Human Services
600 Washington Street, 2nd Floor
Boston, MA 02111

Commissioner:

Daniel M. Henderson

DECISION

Pursuant to the provisions of G.L. c. 30, § 49, the Appellant, June W. Guidara (“Appellant”) is appealing the April 15th, 2009 decision of the Human Resources Division (“HRD”) of the Commonwealth of Massachusetts denying her request for reclassification from the position of EDP Systems Analyst III (“SA-III”) to the position of EDP Systems Analyst IV (“SA-IV”), at the Department of Transitional Assistance (“Department” or “DTA”). On June 16, 2009, Appellant filed the present appeal at the Civil Service Commission. A full hearing was held regarding the appeal on August 4, 2009 at the offices of the Civil Service Commission. The

hearing was digitally recorded. The record was left open for thirty days to allow the parties to provide supplemental information. The Appellant submitted a post-hearing brief.

FINDINGS OF FACT

Fifty (50) exhibits and a stipulation of facts were entered into evidence at the hearing. Based on the documents submitted into evidence and the testimony of:

For the Appointing Authority:

- Tiffany Ampofo, Staffing Analyst Manager, EOHHS;

For the Appellant:

- June Guidara, Appellant;

I make the following findings of fact:

1. The Appellant is employed and classified as an EDP Systems Analyst III (SA-III) in the Management Information Systems unit of the Department of Transitional Assistance (“Department” or “DTA”). She has been employed by the Commonwealth since November 30, 1969. (Stipulated Fact)
2. Appellant has been recognized on numerous occasions for the high quality of her work, including receiving the Commonwealth Citation for Outstanding Performance in 1995. (Exhibits 24 and 46; Testimony of Appellant)
3. In October 1995, Appellant, at the DTA’s request, transferred to the Department’s Management Information Systems division in order to assist in developing “BEACON,” a new computer system used for online benefit eligibility and reporting. Appellant was actively involved in the creation and testing of BEACON, including troubleshooting errors and other complex problems. The Department then recognized her proficiency and knowledge of the requirements for the new BEACON system. (Exhibit 24; Testimony of Appellant)

4. Appellant's Employee Performance Review Form (EPRS) for FY07 stated that Appellant Exceeds/Excels in every category of evaluation. The Progress Review Comments note Appellant's efficient and diligent work ethic and unique contributions. Appellant was recognized as being "the one in the group that tests and verifies the most defects" and that, unlike any other SA-III, Appellant contributes to GAP sessions and functional documentation reviews regarding the development of a new program, BEACON 3. Participants in these reviews are comprised nearly entirely of managerial staff. No SA-III titled employees, other than Appellant, are requested to attend and contribute to these reviews. (Exhibit 10)
5. EPRS evaluations were submitted into evidence of five other SA-IIIs within Appellant's work group. Appellant's performance was exceptional compared to her similarly titled coworkers and even a higher titled SA-IV within her team. (Exhibits 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19)
6. Appellant used less sick days (10) than other SA-IIIs (ranging from 2 to 42 days). Appellant was never tardy to work and "is one of the most dependable in the group ... she can always be counted on." (Exhibit 10)
7. Appellant leads her testing group by developing plans and spreadsheets. Other testing group members thereupon use Appellant's spreadsheets as the standard, for guidance. Appellant "looks at most call requests and defects that [get] come over the course of a day, and adds comments that would help in resolving the defect," thereby providing reliable instructions to other team members. The majority of Appellant's work time is spent leading her unit and functioning as a manager. (Exhibits 10 and 33)
8. Appellant is recognized in her office as uniquely knowledgeable and reliable and she is often requested by name for high priority projects. She fields questions and advises more senior

employees in other units. In support of these points, Appellant submitted into evidence emails from senior employees and management from different units, showing that she is part of managerial and task-leader decisions on a daily basis. (Exhibits 36, 37, 38, 39, 40, 41, 42, 43 and 44; Testimony of Appellant)

9. Ed Rogers is the overall Software Quality Assurance Manager. He has seven (7) separate units under his management. He has designated the Appellant as the “supervisor designee” in his absence. Even when Rogers is present, the Appellant still participates in leadership and management meetings and decisions. At all times, she is considered by Rogers to be the “point of contact person for the team”. (Exhibits 4, 20 & 21, testimony of Appellant)
10. Appellant assumed the duties, leadership and decision making responsibilities of her supervisor, Ed Rogers, in his absence and contributes to management decisions in his presence as well. Rogers’ attendance records were submitted to the Commission and indicate that he was absent from work for a total of about ten (10) weeks during the eighteen (18) months prior to the date of the Commission’s hearing. This period was not unusual for the Appellant’s coverage for Rogers. On these dates the Appellant performed his duties as well as her own work. Appellant’s management did not cease when Rogers returned. Rather, she continued to be involved and contribute to high level decisions and was known to many as a reliable contact and liaison to Rogers. (Exhibit 22; Testimony of Appellant)
11. On June 11, 2008, the Appellant submitted an appeal to the Department for reclassification to the position of SA-IV, including a cover letter, resume and other documentation in support thereof. (Exhibits 8 and 22)
12. The appeal was received by Tiffany Ampofo (hereinafter “Ampofo”), Staffing Analyst Manager, who assigned it to Nancy McCone (hereinafter “McCone”), Personnel Officer, for

initial assessment. McCone gathered information and made a recommendation in order for Ampofo to rule on the appeal. It is Ampofo's practice that if a question or issue were not resolved to her satisfaction, she would make additional inquiries before issuing a decision.

(Testimony of Ampofo)

13. The Appointing Authority uses "Classification Specification – EDP System Analyst Series I, II, III and IV" to classify employees in this series. Paragraph 5 of the specification states the differences between the levels in the series. It states, in relevant part:

V. DIFFERENCES BETWEEN LEVELS IN SERIES

EDP Systems Analyst III:

Incumbents of positions at this level also:

1. Schedule stages of software systems development including such things as structured walk-throughs, program team assignments and others.
2. Train agency personnel or students on-the-job.
3. Determine flow of data in relation to data sets, input/output devices, spool allocations and time requirements.
4. Determine amount of computer time, core size, and number of devices required to process production requests.
5. Evaluate computer programs to ensure compliance with standards.
6. Estimate the time, equipment and staff requirements for current or proposed systems or projects.
7. Research statistical references materials to determine most suitable method of analysis of data.
8. Apply statistical methods to raw data and interpret results.
9. Confer with staff to determine sources, status of runs, allocation of hardware resources, etc.

EDP Systems Analyst IV:

Incumbents of positions at this level also:

1. Prepare EDP unit budget requests and supporting documentation for agency approval and inclusion in final budget.
2. Schedule duty rosters and ensure that all duty stations are properly staffed.
3. Act as consultant to data processing personnel of other agencies or departments, determine suitability of agency programs or systems to meet specific needs and give general advice and direction to agency staff.
4. Act as consultant to users on such matters as computer-augmented or business-oriented instructions, validity of programs, assessing user needs, etc.
5. Approve programs/systems for computer programming.

6. Conduct workshops and/or classroom training sessions for users and agency personnel students.
 7. Determine staffing needs and proper allocation of staff to work functions.
 8. Interview, evaluate and recommend applicants for employment.
 9. Approve rescheduling of interrupted or delayed production runs.
 10. Act as liaison between users, operations management, computer center and agency personnel to establish or adjust production priorities.
 11. Schedule daily production runs based on program duties, input/output requirements, sequence of related jobs, etc.
- (Exhibit 9)

14. The classification specification has not been updated since July 1, 1987. The relevancy and accuracy of the specific duties has changed or been subject to obsolescence due to the advancements in computer technology and the manner in which computers are used by the Department since 1987. (Testimony of Appellant, Testimony of Ampofo)

15. The Interview Guide is used as a basis to conduct an initial analysis of an employee requesting a reclassification, and is created by a supervisor with direct knowledge and supervision. McCone requested an Interview Guide from Rogers in order to outline Appellant's actual duties and responsibilities. (Exhibit 35; Testimony of Ampofo)

16. The Interview Guide gauged the percentages of Appellant's time allocation as follows:

Develop test scenarios for multi systems (45% of the work day)

- Identify key data attributes and dependencies for the purposes of staging tests (5%);
- Analyze conditions to define expected results from executing tests (10%);
- Create documentation for test scenarios via narrative documents and screen print (5%);
- Develop database scripts using TOAD (10%);
- Test data fixes (5%);
- Test Systems Requests (SRs) and Production Tracking Requests (PCRs) (5%) and
- Assist other teams to ensure changes to system are deployed production (5%).

BEACON 3 Testing and Development (55% of work day)

- Review and critique documentation for BEACON 3 development (10%);
- Attend GAP sessions and walkthrough for BEACON 3 functionality (5%) and
- Prepare for Beacon 3 testing and implementation (40%)

(Exhibit 22)

17. McCone wrote in her Memo dated June 13, 2009, that she attempted to gather additional information by contacting Appellant's supervisor, Rogers, but never received the information requested. (Exhibit 22)
18. McCone also wrote in her Memo/recommendation that Rogers told her "in a conversation that he did not support the reclassification and providing additional information 'was not a priority.' He felt that the level of work performed by the appellant was *not a par with the others in the workgroup*" (*emphasis added*). (Exhibit 22)
19. On February 5, 2009, Rogers sent McCone's supervisor, Ampofo, an e-mail and letter in strong support of Appellant's classification. This letter is not mentioned in McCone's review. (Exhibit 33)
20. An email thread between McCone, Ampofo and Rogers indicates that McCone requested additional information from Rogers on February 9, 2009, and he responded on February 24, 2009. Rogers stated that "[w]hen I am absent, June is the supervisor designee" and that "[e]ven when I am present, June is still a point of contact for the team." Rogers elaborated by describing how Appellant fields questions from contractors and that, "[o]n many occasions she receives assignments directly from the Project Manager, Steve Judge." McCone's recommendation does not mention Rogers' support or the underlying reasons given by Rogers for reclassification. (Exhibits 21 and 32)
21. The Department's recommendation does not provide a comparison of Appellant's actual duties performed and the duties outlined in the Classification Specification. Rather, it summarily concludes that the duties listed by Appellant are performed by other similarly titled EDP Systems Analyst III, and therefore Appellant was properly classified. (Exhibits 22 and 23; Testimony of Ampofo)

22. Despite the earlier portion of the recommendation that indicated that Rogers was uncooperative and against reclassification, the recommendation continues and states that “Ed Rogers considers June to be the ‘go to person’ and an exemplary [sic] worker. The duties and responsibilities are, in fact, more than what the other EDP Systems Analyst IIIs coworkers perform in the group. The analysis demonstrated that the present duties do support reclassification to a higher job grade. My recommendation is that June be Reclassified¹ as an EDP Systems Analyst IV.” (Exhibit 22)
23. On January 21, 2009, the Department issued a preliminary denial of Appellant’s reclassification appeal, and a final denial on March 3, 2009, (stipulation) because Appellant did not consistently perform the duties of a SA-IV. Appellant was provided an opportunity to submit a response in opposition to the denial and to request that the Department reconsider its decision. (Exhibits 5, 6, 7 and 23; Testimony of Ampofo)
24. HRD affirmed the Department’s denial of Appellant’s reclassification on April 15, 2009. (Exhibit 5; Testimony of Appellant, Testimony of Ampofo)
25. In her testimony before the Commission, Ampofo agreed that McCone had indeed made an initial recommendation that Appellant should be reclassified. Ampofo disagreed, reasoning that reclassifying Appellant would be improper because she performs the same duties as everyone in her group and that being a “go-to” person is an insufficient reason for reclassification. (Testimony of Ampofo)
26. Appellant’s supervisor submitted a letter to the Commission in which, among other things, he stated that “on a daily basis [Appellant] provides a 100% contribution to team leadership,”

¹ The original typed sentence read “My recommendation is that June be *retained in her existing classification* as an EDP Systems Analyst IV.” However, the “retained in her existing classification” portion was crossed out by pen and “Reclassified” was written above.

that “she serves as a functional supervisor of the rest of the team,” and that in Rogers’ absence, Appellant is relied upon to manage the team. (Exhibit 25)

27. Appellant assumed the leadership role in her supervisor’s absence, a considerable period, despite the fact that Ms. Hurley, a SA-IV, was equally available to lead but acquiesced to Appellant. Ms. Hurley readily acquiesced in giving over supervisor authority to the Appellant, recognizing her superior knowledge, experience and proficiency. Appellant assumed leadership and performed the managerial duties without increased compensation. (Testimony of Appellant; Testimony of Ampofo)

CONCLUSION

After careful review of the testimony and documentation presented in this appeal, the Appellant has shown by a preponderance of the evidence that she is performing a majority of the duties of an SA-IV more than 50 percent of the time

There are eleven (11) duties outlined in the Classification Specification that distinguish the SA-IV position from SA-III (Duty Nos. 1 through 11). On a regular basis, Appellant performs nine (9) of the eleven (11) enumerated duties that are specific to the SA-IV position. Although evidence before the Commission does not clearly establish that Appellant is involved in preparing unit budget requests (No. 1) or that she interviews and evaluates prospective applicants for employment (No. 8); Appellant is intimately involved in the remaining duties. The Appellant is well recognized by other units and in her own unit, including her supervisor and an SA-IV to have superior knowledge, proficiency and performance in that unit. Appellant performs the duties of a SA-IV or higher on a daily basis and those duties collectively amount to more than 50 percent of her work duties.

For instance, Appellant acts as a consultant to data processing personnel of other agencies and departments (No. 3). She routinely acts as a liaison to other personnel by making technical recommendations and solutions to managerial-level problems. Appellant acts as a consultant to both individual users and inter-agency staff on all issues relating to the BEACON system. She attends managerial meetings and is included and contributes to email correspondences among management on important issues. Appellant's help is often sought by her manager, Rogers, to address difficult technical problems. Rogers also has Appellant attend important managerial meetings regardless of whether Rogers will be present. Appellant is also responsible for approving computer program systems and allocating work to staff (Duty Nos. 3, 4, 6 and 11). Appellant is also directly responsible for allocating work within her unit. She creates spreadsheets for projects that are utilized by the staff to help guide, verify and focus their work.

Appellant's reclassification is also supported by the fact that Appellant performs the actual duties of her supervisor in his absence. Rogers was absent for a total of about ten (10) weeks during the eighteen (18) month period before the full hearing. On these days, Appellant made managerial decisions and substituted for her supervisor. Appellant's managerial contribution did not end when Rogers returned to work. Rather, Appellant remained directly involved in day-to-day operations and specifically involved in the follow-up to decisions made by her during her managerial watch.

McCone's initial classification recommendation to the Department was ambiguous at best. It states that McCone conducted a thorough review, although Rogers was uncooperative or unavailable to provide additional information. However, the record shows that later Rogers directly informed McCone and her supervisor, Ampofo, of his support for reclassification on multiple occasions. This later support never made it into the recommendation. Furthermore,

the recommendation makes no comparison between the duties required for the SA-IV position and those actually performed by Appellant. The information obtained and evaluated by the Appointing Authority indicates that a thorough review was not conducted and that the Appointing Authority had insufficient information to decline the appeal.

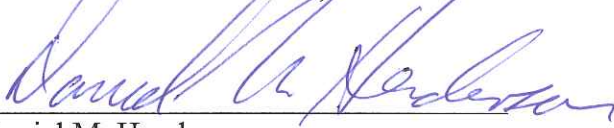
When Ampofo was asked to explain her decision not to adopt the recommendation of McCone, she said that given the information made known, she found that Appellant was ineligible for reclassification. However, Ampofo was unable to elaborate beyond her “feeling” that Appellant had been performing the duties of an SA-IV for less than 50 percent of the time.

I find that the Department did not conduct a thorough review. The duties performed by Appellant are more akin to the SA-IV title than the SA-IV title and Appellant performs a majority of the duties of a SA-IV more than 50 percent of her work time. The Commission was presented with numerous evidence in support thereof. Said information was available and readily discoverable to the Department. Appellant’s supervisor’s support for her reclassification, in addition to the many emails exchanged among Appellant and various other departmental managers, evidenced her leadership and management within her unit.

Thus the Appellant must prevail because she has shown by a preponderance of the evidence that she is performing a majority of the duties of an SA- IV more than 50% of the time.

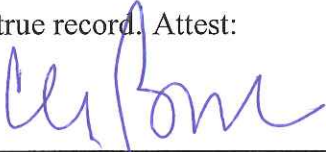
For these reasons, the appeal filed under Docket No. C-09-284 is hereby ***allowed***.

Civil Service Commission,


Daniel M. Henderson
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Henderson and Stein, Commissioners) and [Marquis absent and McDowell abstain] on March 10, 2011.

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. 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:

June Guidara (Appellant)

Brett Cavicci, Atty. (for Appointing Authority)

John Marra, Atty. (HRD)