

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

One Ashburton Place – Room 503

Boston, MA 02108

(617) 727 – 2293

BARBARA PAPARAZZO,

Appellant

v.

C-10-70

UNIVERSITY OF MASSACHUSETTS,

AMHERST,

Respondent

Attorney for the Appellant:

Matthew D. Jones, Esq.

Massachusetts Teachers Association

Division of Legal Services

20 Ashburton Place

Boston, MA 02108

Attorney for the Respondent:

Margaret A. March

University of Massachusetts Amherst

Human Resources

320 Whitmore Administration Building

Amherst, MA 01003

Hearing Officer:

Angela C. McConney, Esq.

DECISION

Pursuant to the provisions of G.L. c. 30 §49, the Appellant, Barbara Paparazzo (hereinafter “Appellant”) is appealing the October 23, 2009 decision of the Human Resources Division (hereinafter “HRD”) denying her request for reclassification from the position of Clerk IV to the position of Clerk V in the Center for Student Development, at the University of Massachusetts at Amherst (hereinafter “University”). A full hearing was held on May 26, 2010 at the State Office Building located in Springfield, MA. The hearing was digitally recorded. Copies of the hearing

were forwarded to the parties, and a copy is retained by the Civil Service Commission (hereinafter “Commission”).

Both parties submitted proposed decisions.

FINDINGS OF FACT:

Twenty-one (21) exhibits were entered into evidence at the hearing. The record was left open for the Respondent to submit further documentation upon the request of the hearing officer, namely an official organizational chart and the Form 30 for Virginia Wesoloski. Those documents were received on June 28, 2010 and were admitted as Exhibits 10 and 23 respectively. The record was then closed.

Based on the documents submitted into evidence and the testimony of:

For the Appellant:

- Barbara Paparazzo (hereinafter “Appellant”)

For the Respondent:

- Tetna, Classification Analyst, University of Massachusetts at Amherst
- Margaret A. March, Classification Coordinator, University of Massachusetts at Amherst

I make the following findings of fact:

1. Barbara L. Paparazzo (“Paparazzo” or “Appellant”) has been employed full-time by the University since December 19, 1984. (Stipulation of Facts)
2. The Appellant holds a Bachelors Degree from the University of Connecticut, and Masters Degree in Creative Writing from New England College, NH. (Testimony of Appellant)
3. She began her current position as a Clerk IV in the Center for Student Development (CSD) on October 27, 2008. (Stipulation of Facts)

4. The CSD manages the 250 registered organizations on campus, including multicultural organizations, fraternities and sororities. (Testimony of Appellant)
5. In her position, the Appellant reviews and edits contracts for lecturers, performers, vendors and artists appearing at the University. (Stipulation of Facts) She reviews eight to ten contracts per week. (Testimony of the Appellant)
6. Early fall is one of the busier times of year for reviewing contracts, and in the Spring the Appellant must usually work overtime. (Testimony of the Appellant)
7. The Appellant testified that these contracts total about \$750,000 in payments from the University. (Testimony of the Appellant)
8. Any contracts with a payment of greater than \$25,000 is automatically forwarded to the University's Legal Department. (Testimony of the Appellant)
9. Joanne Menard (hereinafter "Menard"), a Clerk V, was the previous incumbent of that position. She left to become a Buyer II elsewhere in the University system. (Stipulation of Facts, Testimony of Appellant)
10. However, that incumbent performed duties that are not part of the responsibilities of the current position. (Testimony of Tetna, Exhibit 5)
11. The incumbent before Menard, Virginia Wesoloski (hereinafter "Wesoloski"), was also classified as a Clerk V. She also performed duties that are not part of the responsibilities of the current position. (Exhibit 23, Testimony of Tetna)
12. A Typist II and two (2) student staff reported to Wesoloski. (Exhibit 23)
13. On November 5, 2008, the Appellant filed an appeal for reclassification with the University's Division of Human Resources, seeking classification from the position of Clerk IV to Clerk V. (Stipulation of Facts)

14. At the time of her reclassification appeal, the Appellant reported to Byron S. Bullock, Associate Vice Chancellor for Student Affairs and Campus Life. (Stipulation of Facts)

15. Under Specific Duties in the Interview Guide, the Appellant allocated her duties in the following manner:

45% - Creates, reviews and edits performer/agency contracts by assessing related documents and ensuring compliance with state, federal and University policies; consults with Legal Counsel for contract reviews and recommendations; acts as liaison to CSD staff in adjusting contracts for compliance to policy; signs contracts on behalf of CSD staff; refers contracts to various offices for signatures; refers contracts and legal memoranda to Director of Procurement for review and signature; ensures use of correct type of contract; verifies sponsor budgets to ensure adequate funding; composes correspondence on behalf of CSD and RSO groups; and maintains a contract documentation system to keep records and track data.

40% - Acts as liaison for Associate Vice Chancellor to internal constituencies, university departments, Vice Chancellor, faculty and vendors; screens and reviews phone calls; schedules meetings; organizes daily schedule and long term calendar; troubleshoots, resolves and refers problems; responds to inquiries; composes correspondence; participates in implementation of special projects; and maintains Associate Vice Chancellor's confidential files.

10% - Exchanges information and maintains contact with University administrative offices, contracting agents and CSD staff to resolve problems and conflicts. Makes purchases for the CSD office.

5% - Manages and updates CSD email listservs and monitors approval and rejection of correspondence for CSD office and administrative staff, applies University and departmental policies and procedures, attends and participates in meetings, recommends procedural changes, and serves on committees as assigned or approved by supervisor.

(Stipulation of Facts, Exhibit 11)

16. When asked to list her direct subordinates in said Interview Guide, the Appellant wrote,

“None.” (Exhibit 11)

17. When asked to list the subordinates of her direct subordinates in said Interview Guide, the

Appellant wrote, “None.” (Exhibit 11)

18. When asked to list those who report to her for only a portion of their total job assignments in said Interview Guide, the Appellant wrote, “None.” (Exhibit 11)

19. The Classification Specification for the Clerk states that Clerk I is the entry-level clerical job in this series; Clerk II position is the second-level clerical job in this series; Clerk III position

is the third-level clerical job in this series or, based on assignment, may be the first-level supervisory job in this series; Clerk IV position is the first-level supervisory job in the series, or based on assignment, may be the second-level supervisory job in this series; Clerk V position is the second-level supervisory job in the series, or based on assignment, may be the third-level supervisory job in this series; and Clerk VI position is the third-level supervisory job in the series, or based on assignment, may be the fourth-level supervisory job in this series.

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

1. Files material such as correspondence, reports, applications, claim record cards, etc. in accordance with a prescribed classification system.
2. Answers phone calls and provides routine information concerning agency services according to established procedures.
3. Prepares standardized forms such as routing slips, receipts, etc. according to detailed procedures.
4. Receives and distributes incoming mail, memoranda, packages, etc. to appropriate individuals within the assigned unit.
5. Retrieves records from files such as correspondence, applications, claim record cards, etc.
6. Locates and withdraws information from records by using electronic data display terminals, searching files, etc. in order to respond to inquiries or requests by supervisor.
7. Posts information to logs or records according to prescribed procedures.
8. Operates standard office machines and equipment requiring brief orientation for use such as photocopiers, mimeographs, other copying machines, file retrieval equipment, central console telephone systems, postage meters, microfilm or microfiche viewers or processors, calculators, adding machines, public address systems, paging devices, 2-way radios, binders, hand collators, perforators, folders, shredders, or similar equipment.
9. Reviews forms, lists, documents, correspondence and/or applications for accuracy and completeness.

Based on assignment, incumbents of positions at this level or higher may also:

1. Perform typing functions in which speed is not essential, such as typing forms, routine correspondence, envelopes, labels, index cards, etc.

DIFFERENCES BETWEEN LEVELS IN SERIES:

Clerk II:

Incumbents of this level or higher also:

1. Maintain records according to established procedures in order to ensure accurate and complete information.
2. Answer inquiries relative to laws, rules, regulations, policies and procedures governing agency services.
3. Make calculations according to prescribed formulae for the purpose of processing documents such as invoices, payments, tax returns, etc.
4. Schedule or arrange for conferences, meetings, interviews, appointments, or similar activities by reserving required facilities, checking the availability of parties involved and notifying

appropriate individuals of dates, times and locations to ensure the availability of facility and attendance by appropriate individuals.

5. Prepare requisitions according to standard procedures in order to replenish supplies.
6. Notify appropriate parties, orally and in writing, of information such as meetings, conferences, court decisions, trial cancellations, patient arrivals and discharges, etc.

Based on assignment, incumbents of this position at this level or higher may also:

1. Issue licenses, registration plates, certifications of title, permits, or identification cards by checking applications for conformance with established guidelines, accepting fees, completing required forms and/or operating simply camera and laminating devices to provide applicants with official documentation of licensure.

Clerk III:

Incumbents of this level or higher also:

1. Conduct on-the-job training of assigned employees concerning routine clerical procedures, agency policies, etc.
2. Compile statistical information to be included in reports of agency activities.
3. Proofread typed material for grammatical, punctuation and spelling errors and for proper font, accuracy and completeness.
4. Compose correspondence for routine letters such as requests for information, confirmation of meetings, etc.
5. Operate specialized office machines or equipment requiring training by the manufacturer prior to use.

Based on assignment, incumbents of this position at this level or higher may also:

1. Perform typing functions requiring the ability to produce 35 mailable words per minute, such as letters and memoranda.

Clerk IV:

Incumbents of this level or higher also:

1. Explain provisions and contents of various documents or programs including effective rates, options, eligibility, benefits, etc. to employees and others.
2. Interview applicants for clerical positions and make recommendations to superiors.
3. 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 for approval.

Clerk V:

Incumbents of this level or higher also:

1. Develop, revise and, with approval of supervisor, carry out work procedures, in cooperation with other units of the department to ensure the efficient and effective flow of work.

SUPERVISION RECEIVED:

Clerk I:

Incumbents of positions at this level receive close supervision from clerks or other employees of higher grade who provide detailed instructions on all work activities and review performance through inspection for accuracy, completeness, neatness and compliance with instructions.

Clerk II:

Incumbents of positions at this level receive direct supervision from clerks or other employees of higher grade who provided instructions on work assignments and review performance through inspection and verbal reports for accuracy, completeness, neatness and compliance with instructions.

Clerk III:

Incumbents of positions at this level receive direct supervision from clerks or other employees of higher grade who provide instructions on procedures as required and review performance through conferences and reports for accuracy, completeness, neatness and compliance with instructions.

Clerk IV:

Incumbents of positions at this level receive general supervision from clerks or other employees of higher grade who provide procedural guidance and review performance through conferences and reports for effectiveness, accuracy and compliance with standard procedures.

Clerk V:

Incumbents of positions at this level receive general supervision from administrative or other employees of higher grade who provide guidance on policies and review performance through conferences and reports for effectiveness, accuracy and compliance with agency policies and procedures.

SUPERVISION EXERCISED:

Clerk I:

None.

Clerk II:

None.

Clerk III:

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

Clerk IV:

Incumbents of positions at this level exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 1-5 clerical personnel and may exercise indirect supervision (i.e. through an intermediate level supervisor) over 6-15 clerical personnel.

Clerk V:

Incumbents of positions at this level exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 6-15 clerical personnel and exercise indirect supervision (i.e. through an intermediate level supervisor) over 6-25 clerical personnel.

(Exhibit 3)

20. On January, 13, 2009, Tetna, the University's Classification Specialist, completed the job

audit of the Appellant's position. (Testimony of Tetna)

21. He reviewed the duties performed, in addition to the qualifications necessary to do the job as

indicated on her Position Description Form 30. (Testimony of Tetna)

22. The University informed the Appellant of its unfavorable Preliminary Recommendation.

(Testimony of Appellant)

23. On May 28, 2009, the Appellant filed a “Rebuttal of Preliminary Recommendation for Re-classification” with Ernie Woo of the University Division of Human Resources, arguing that she is properly classified as Clerk V, or alternatively, as a Buyer II. (Stipulation of Facts, Exhibit 12)
24. The Appellant’s Clerk IV position is classified at Grade 13. Clerk V and Buyer I are classified at grade 15. Buyer II is classified at Grade 17. (Testimony of Appellant)
25. Buyers are responsible for the purchasing and procurement of good at the University. The CSD has no responsibility for procuring goods on behalf of the University. (Testimony of Tetna)
26. The request for reclassification was formally denied by the University on September 4, 2009. (Stipulation of Facts, Exhibit 13)
27. On September 17, 2009, the Appellant appealed to the state Human Resources Division (“HRD”). (Stipulation of Facts - Exhibit 1)
28. On October 23, 2009, HRD denied the request for reclassification. (Stipulation of Facts, Exhibit 14)
29. On April 2, 2010, the Appellant appealed to the Civil Service Commission. (Stipulation of Facts)

CONCLUSION

After careful review of the testimony and evidence presented in this appeal, I affirm the decision of HRD. The Appellant has not met the burden of proving that she performs a majority of the distinguishing duties of a Clerk V more than 50% of the time. I base my conclusion on the documentary evidence and the testimony of the Appellant and other witnesses.

According to the Classification Specification, the duties of a Clerk V are to develop, revise and, with approval of supervisor, carry out work procedures, in cooperation with other units of the department to ensure the efficient and effective flow of work. Incumbents of positions at this level receive general supervision from administrative or other employees of higher grade who provide guidance on policies and review performance through conferences and reports for effectiveness, accuracy and compliance with agency policies and procedures. Clerk Vs also exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 6-15 clerical personnel and exercise indirect supervision (i.e. through an intermediate level supervisor) over 6-25 clerical personnel.

The Appellant holds out her contract review work as the mainstay of her reclassification appeal. Under Specific Duties in her January 13, 2009 Interview Guide (Exhibit 11), she wrote that she performed contract review 45% of the time. The other 55% of her time was occupied with performing clerical duties. In her April 2009 audit with Tetna, the figure did not change. In testimony, she said that by the time of her May 28, 2009 rebuttal, that figure had increased to 51%. In her testimony before the Commission, the figure was again amended to 55%. Her Interview Guide was never amended.

Tetna testified that in certain circumstances, a unique skill may satisfy one of the requirements for higher classification in the Clerk series, especially for the requirement of supervision. The Appellant testified that no one reports to her, however, she presents that her review of entertainment contracts is a unique skill. But the Appellant is neither an attorney nor other legal professional. She has not undergone legal training. She reviews contracts that have been drafted by someone else, and inserts preapproved boiler plate language in the appropriate places. She performed this duty often and by rote, with no responsibility for deviating from a

simple formula. (Exhibits 17, 18, 19, 20, 21 and 22) In the instance when she is presented with a complicated legal document, she must submit said contract to the Legal Department for review. Any contracts with payments greater than \$25,000 automatically are forwarded to the Legal Department. In the light most favorable to the Appellant, I find that even if she were indeed performing contract review work 55% of the time, such contract review is not a specialized skill warranting reclassification to a Clerk V position.

In addition to her contract review work, the Appellant provides clerical support to an Assistant Vice Chancellor. Tetna testified that Clerk Vs throughout the University system who lack unique specialized skills or have no supervisory responsibility usually directly report to a Vice Chancellor, Chancellor, Dean or other senior officials.

When the Appellant assumed her current position on October 27, 2008, the previous incumbent had been classified as Clerk V, as had the person before her. Tetna testified that he had not reviewed these previous two incumbents while they had been employed in that position. However, he was able to offer testimony based on their Form 30s which were admitted into evidence. (Exhibits 5 and 23) He found that a Clerk III reported to the immediate previous incumbent, Joanna Menard, a Clerk V. The incumbent before Menard, Wesoloski, also a Clerk V, performed specialized duties that are not part of the Appellant's current responsibilities. She had reporting staff of a Typist II and two (2) students. Tetna credibly testified that the duties had so changed by the time the Appellant assumed the position, the position was properly classified as a Clerk IV. Therefore I find that the positions of the two previous incumbents had changed by the time the Appellant assumed the position.

In her May 28, 2009 rebuttal to the University's unfavorable decision on her reclassification appeal, the Appellant has suggested for the first time that she be classified as a Buyer I or Buyer

II. Tetna testified that incumbents in the Buyers series are limited to purchasing or procuring goods, products or equipment - a responsibility that is not within the purview of the Center for Student Development. (See Exhibits 2, 4, 6, 7, 8 and 9). Tetna testified that the Procurement Department is a large department within the University system. That department deals with contract vendors on a daily basis, works with the parts/material catalog, negotiates goods and prices with vendors, checks shipping rates and knows shipping deadlines.

In her testimony, the Appellant said that she only performed 2 of the 15 duties and responsibilities described in the Buyer II position as described in Exhibit 7. In her testimony, the Appellant said that she only performed 1 of the 7 duties and responsibilities of a Buyer II position as described in Exhibits 6 and 8. Of the 23 duties and responsibilities of a Buyer I position as described in Exhibit 9, the Appellant testified that she only performed 4 of them. Since the Center for Student Development does not purchase or procure goods on behalf of the University, I find through the Appellant's testimony, Tetna's testimony and the evidence presented that the Buyers series is an inappropriate Job Specification for the duties of the Appellant.

The Appellant is a highly skilled professional, and is valued by her colleagues at the University. Her duties and contribution to the Center for Student Development and the University at large cannot be minimized. A review of the Clerk V position shows that a majority of the duties in the job specification relate to greater responsibility and supervisory duties. In her own words, the Appellant has shown that that her work is not a majority of those duties more than 50% of the time. See Wilson v. University of Massachusetts at Amherst, Docket No. C-08-287 (2010); Kurt v. Massachusetts Highway Dep't, Docket No. C-09-428 (2010); Grzybowski v. University of Massachusetts at Amherst, Docket No. C-09-388 (2010); Cohen v. Massachusetts

Highway Dep't, Docket No. C-09-268 (2010); *compare* Harand v. Soldiers' Home in Holyoke, 21 MCSR 194 (2008).

Thus the appeal must fail because the Appellant has failed to show by a preponderance of the evidence that she is performing a majority of the duties of Clerk V more than 50% of the time.

For these reasons, the appeal filed under Docket No. C-10-70 is hereby *dismissed*.

Angela C. McConney, Esq.
General Counsel

By a vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, McDowell and Stein Commissioners) on July 1, 2010.

A true record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of this decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), 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 to:
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