

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

DINA SIEGAL,
Appellant

v.

D1-14-109

CITY OF BOSTON,
Respondent

Appearance for Appellant:

Joseph G. Donnellan, Esq.
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Norwood, MA 02062

Appearance for Respondent:

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Commissioner:

Cynthia A. Ittleman

DECISION

The Appellant, Dina Siegal (Ms. Siegal or Appellant), acting pursuant to G.L. c. 31, §§ 42 and 43, filed a timely appeal with the Civil Service Commission (Commission or CSC) on May 8, 2014 contesting the City of Boston (Boston or Respondent)'s decision to terminate her employment. A pre-hearing conference was held on June 3, 2014. On June 24, 2014, the Respondent filed a Motion to Dismiss/for Summary Decision (Motion). On July 11, 2014, the

Appellant filed an Opposition to the Motion (Opposition). A hearing on the Motion was held on July 17, 2014. The Motion was denied on February 23, 2015. A full hearing in the case was held on April 13 and 29, 2015 at the Commission.¹ The parties agreed to admit their respective documents into the record but would argue the weight they would be given. Witnesses, except for the Appellant and one representative of the Respondent each day, were sequestered. As there was no written request for a public hearing by either party, the hearing was closed. The full hearing was recorded on the first day by a stenographer; the parties agreed the stenographic recording will be the official record of the hearing. There was no stenographer present for the second day of hearing but it was digitally recorded by the Commission. Copies of the digital recording were sent to the parties.² Both parties submitted post-hearing briefs to the Commission. For the reasons stated herein, the appeal is denied.

FINDINGS OF FACT:

Exhibits 1 through 20C were entered into evidence.³ Based on these exhibits, the testimony of the following witnesses:

Called by the Respondent:

- Ramona Salas, Director of Classification and Compensation, Boston Human Resources office
- James Sullivan, Director, Intergovernmental Relations, Boston
- Virginia Mayer, contract employee, Director of Boston's Washington Office

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudicatory hearings before the Commission with G.L. c. 31 or any Commission rules taking precedence.

² If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. The hearing was also recorded digitally by the Commission.

³ Entered into the record post-hearing, by the Respondent in response to the Commission's request at the hearing, were Ex. 20A, copy of the Mayor's Office Salary Scales in 2015; Ex. 20B, excerpts of the 1974 Munciclass Manual; and Ex. 20C, current Organization Chart of Boston city government.

- Bernard Killarney, Director of Operations, Boston Human Resources office

Called by the Appellant:

- Howard Leibowitz, former Director of Boston Intergovernmental Relations⁴
- Ms. Siegal

and taking administrative notice of all matters filed in the case, as well as pertinent statutes, case law, regulations, rules, policies, the 1974 Munclass Manual and the 1998 Listing of Municipal Official Service Titles of the state's Human Resources Division [1998 HRD List], and reasonable inferences from the credible evidence; a preponderance of credible evidence establishes the following:

1. Ms. Siegal has lived in Boston for more than twenty (20) years. She earned a Bachelor's degree in Political Science in Washington, D.C. In Washington, D.C., she worked in a Congressional office briefly, then worked in two different grassroots lobbying organizations. Thereafter, she worked as legal services advocate in Massachusetts for several years advising applicants how to appeal a denial of benefits. After that, she was employed for several years as a Policy Analyst, Staff Director and Special Legislative Projects Coordinator to a Massachusetts state Senator who was Chair of the Human Service and Elderly Affairs Committee. In the evenings while working at the State House, Ms. Siegal earned a Master's degree in Public Affairs. Ms. Siegal left the State House when the Senator for whom she was working was not re-elected. (Testimony of Ms. Siegal; Ex. 1 (hereinafter Joint Statement of Facts), section D)
2. Ms. Siegal began seeking employment with the Respondent. At about that time, Ms. Siegal knew Howard Leibowitz from their neighborhood. Mr. Leibowitz was in charge

⁴ Mr. Leibowitz's testimony was taken out of turn by agreement of the parties since he was leaving to move to Washington, D.C. shortly thereafter.

at the Respondent's Intergovernmental Relations office (IGR) in the Respondent Administrative Services Department (ASD).⁵ (Testimony of Ms. Siegal)

3. The IGR had three (3) divisions: Federal Relations, State Government Relations, and City Council Liaison. (Testimony of Mr. Leibowitz) A fourth division was added to IGR for "Grants Development" in the Respondent's fiscal year 2014 operating budget. (Joint Statement of Facts, section B)
4. Mr. Leibowitz told Ms. Siegal that a position was available in IGR and another job was open in the Respondent's development office. Mr. Leibowitz wanted to hire someone with knowledge and/or experience with human services, grants and federal government issues. Ms. Siegal applied for both jobs. She was interviewed by Mr. Leibowitz for the IGR job, was offered both jobs and she accepted the job in IGR in January 1991, at which time Mayor Flynn was in office. (Testimony of Ms. Siegal; Administrative Notice)
5. The Respondent hired Ms. Siegal in February 1991 as a Principal Administrative Assistant (PAA) in the IGR Federal Relations Department in the Administrative Services Department (ASD) in a pay level of MM-8 (middle management), Step 1, with a salary of \$37,397.88. (Testimony of Ms. Siegal; Joint Statement of Facts; Ex. 2)
6. The IGR office was located on the 9th floor in City Hall; the Mayor's office was on the 5th floor. Ms. Siegal would go to the Mayor's office on the 5th floor to ask to speak to him occasionally, although sometimes she would communicate with the Mayor in writing. (Testimony of Ms. Siegal; Exs. 9 – 14, 16) She had a working relationship with the Mayor, as did some others in IGR. (Testimony of Mr. Leibowitz)

⁵ An organizational chart of ASD/IGR at the time Ms. Siegal was hired, and for many years thereafter, was unavailable at the time of this hearing. However, the Respondent produced an organizational chart developed by Mayor Walsh's new administration in 2014 that indicates that IGR was under the Chief of Operations & Administration, which Chief appeared in the upper left corner of the chart, to the left of the Mayor but not connected with a line thereto. (Joint statement of Facts, section A)

7. The job description for PAA provided to Ms. Siegal when she applied for the position was,

Under supervision, performs work of considerable difficulty as senior policy analyst for the Federal Relations Office. Emphasis on human service policy analysis, as well as, (sic) program and grant development. Liaison with city human service agencies and national human service organizations. Prepares detailed reports and analysis on the impact of federal human service legislation, programs, and regulations. Assists city agencies in grant preparation. **Works with Mayor and Department heads to prepare testimony, reports, and legislation for submission to relevant Congressional committees.** (Joint Statement of Facts, section C (emphasis added))

8. The qualifications for the PAA job at the time that Ms. Siegal applied for the position were,

Boston Residency Required. Applicant must have at least four years of full-time, or equivalent part-time, administrative managerial, or professional experience in the field of office or business administration in work the major duties of which included one or more of the following functions: purchasing, personnel administration, budgetary control, accounting, record management, work simplification, financial administration, or program management, or any equivalent combination of such experience. **Knowledge of federal laws, regulations, and programs in the areas of human services preferred.** (Joint Statement of Facts, section C (emphasis added))

9. When the Respondent hired her, Ms. Siegal was informed that her appointment was provisional and that employees with permanency would have seniority over her. The title on her paycheck was PAA. (Testimony of Ms. Siegal; Joint Statement of Facts, section J; Ex. 2) However, no one in IGR referred to her as a PAA; neither did they refer to her as Legislative Counsel. (Testimony of Ms. Siegal; Testimony of Mr. Leibowitz) There were no attorneys in IGR. (Testimony of Mr. Leibowitz)
10. Subsequently, Mr. Leibowitz became Director of IGR. (Ex. 2) Although he was given a civil service title Executive Assistant and Ms. Siegal was given the title Principal Administrative Assistant, neither of them performed clerical work. (Testimony of Mr.

Leibowitz; Joint Statement of Facts – Ex. H) IGR had a close working relationship with the Mayor. (Testimony of Mr. Leibowitz)

11. In her first ten (10) years at IGR, she focused on grant opportunities, funding development, substance abuse, youth violence prevention and reading legislation related to funding. After 9/11, she played a “key role” in pursuing additional funding for Boston law enforcement as the lead Boston area community. (Testimony of Ms. Siegal)

12. As part of her responsibilities in IGR, Ms. Siegal worked on issues related to the National Commission on Children and she represented the Mayor at many city group meetings on matters such as an early childhood, IGR and cultural communities. She obtained funding for community policing and she did a lot of work with the U.S. Conference of Mayors on certain issues as the Mayor’s representative, including legislation. Ms. Siegal also helped create the Office of New Bostonians. (Testimony of Ms. Siegal) Prior to Mr. Leibowitz’ departure from IGR in 2004, Ms. Siegal was more involved in human services grants, among her other activities. (Testimony of Mr. Leibowitz)

13. In 2000, during Mayor Menino’s administration, Ms. Siegal was promoted to Deputy Director of IGR, pursuant to the following memorandum,

TO: Vivian Leonard,
Director of Human Resources
FROM: Howard Leibowitz,
Director of Intergovernmental Relations
RE: Executive Order
DATE: March 27, 2000

Due to a reorganization of the Office of Intergovernmental Relations Dina Siegal’s responsibilities will be elevated to that of Deputy Director of Intergovernmental Relations. To reflect these changes, we are requesting an Executive Order upgrading Ms. Siegal from a MM-10 to a MM-12. ... (Joint Statement of Facts, section F)

14. Effective March 25, 2000, Mayor Menino ordered Ms. Siegal's pay scale changed from MM-10 to MM-12. (Ex. 2)
15. The IGR Director and Deputy Director do work in the State House. (Testimony of Mr. Leibowitz)
16. Ms. Siegal's business card identified her as Deputy Director, Office of Intergovernmental Relations. In the bottom left corner of her business card was written,
- City of Boston
Mayor's Office
(Joint Statement of Facts, section G)
17. The promotion to Deputy Director raised Ms. Siegal's salary to approximately \$80,000. (Testimony of Ms. Siegal; Joint Statement of Facts, section E) With the promotion, her work involved certain organizational matters, including regularly signing off on the human resources software system, which required two (2) signatures (hers and that of Mr. Leibowitz). (Testimony of Ms. Siegal; Ex. 1F)
18. On May 27, 2003, Mr. Richard Driscoll, Deputy Director of the Respondent's Human Resources office, sent a memorandum to "H.R. Managers" stating, in part,
- The following employees, in accordance with [St. 1998] CH. 282, have been made permanent civil service employees by this office. ...
(Joint Statement of Facts, section G)
19. A list was attached to the May 27, 2003 memorandum for IGR that listed Mr. Leibowitz (as Executive Assistant), Ms. Shone (as Executive Secretary) and Ms. Siegal (as PAA), stating that each of them was a permanent civil service employee. (Id.)
20. St. 1998, Chapter 282 states,

AN ACT CERTIFYING PROVISIONAL EMPLOYEES AND PROVISIONAL PROMOTEES WITHIN THE CITY OF BOSTON AS PERMANENT EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Notwithstanding the provisions of any general or special law to the contrary, the personnel administrator shall certify any active employee who served in a civil service position in the city of Boston as a provisional or provisional promotion employee for a period of at least six months immediately prior to January 1, 1998, to permanent civil service status in that position.

Approved August 10, 1998.

(Ex. 4B)

21. In 2000, the Respondent submitted to the state's Human Resources Division [HRD] lists of many provisional city employees whom it reported were made permanent civil service employees under St. 1998, Chapter 282, including Ms. Siegal, as a PAA. (Ex. 4D, p. 17)
22. An HRD record indicates that Ms. Siegal's position as a PAA was made permanent in 1998. (Ex. 4E)
23. Ms. Siegal was not aware of Chapter 282 until sometime after it became law. At some point, she asked Ms. Shone (at IGR) and Mr. Driscoll (at Respondent's Human Resources office) if she was a civil service employee and they told her that she was. (Testimony of Ms. Siegal; Joint Statement of Facts, section H)
24. Mr. Leibowitz left city employment in 2004, leaving Ms. Siegal as the highest ranking person in IGR. After his departure, various people were appointed director of IGR. There were gaps in time in the appointment of the different directors, during which time, Ms. Siegal was the highest ranking person at IGR and she took on additional responsibilities. She attended a number of meetings with legislators. Ms. Siegal also began working on Massachusetts Municipal Association (MMA) issues when Mr. Leibowitz left the office. She represented Mayor Menino at MMA meetings and informed him of related events; she worked on MMA matters for eight (8) to ten (10) years and she was the Mayor's "go to" person in that regard. In 2006, Ms. Siegal began

working on the Mayors Against Illegal Guns (MAIG) initiative; she was the “lead connection” to Mayor Menino on this issue for a period of time. She attended a Congressional hearing on gun violence. (Testimony of Ms. Siegal; Ex. 3D (written by Ms. Siegal); Testimony of Mr. Sullivan) Mr. Leibowitz returned to Respondent’s employ in 2011 as the Chief of Partnerships regarding policy matters and had the opportunity to work with IGR again. (Testimony of Mr. Leibowitz)

25. Ms. Siegal has written several documents over time regarding her job. On a two (2)-page memorandum entitled “Navigating the Federal Legislative Process” and dated December 15, 1998, she wrote, in part,

WHAT I DO:

- Represent the Mayor & City’s interests in DC (Congress, Executive & Org’s (sic))
- Mostly around human development issues, CC is a priority issue for TMM⁶
- I keep up with what is happening that affects urban areas, have help of a full time staff in DC
- My time is spent talking with folks in DC, writing letters urging action, coming up with ideas for legislation, getting the maximum amount of \$ possible out of DC, working with other Mayors and and (sic) national orgs. on issue of mutual concern, commenting on federal regulations, following budget and legislative actions both pro actively (sic) and defensively etc.. (sic)

HOW TO DO IT:

KEY POINTS:

Work with others who have mutual concerns, a coalition of ten big city mayors has a lot more impact than just one. Find other groups and coalitions in the state with your agenda so you can have more strength than you would alone ... Talk to your local officials like mayors and selectman. We work with the MMA (mayors and municipal) and child care is not at all on their agenda. ...

Get to know your representative and his staff and your senators and their staff. Check the congressional calendar for recess periods when the officials will be home in the district and you can get some face time with them. See calendar I brought. We always know when rep’s (sic) will be around to do press events based on calendar (or try Mondays or Fridays) (sic)

STAFF is really important. As former committee staff to a state legislator, I know how staff work as gatekeeper and info sifter. Provide them with info from their district: on needs, on what works, and the impact. Make them look good in

⁶ I take Administrative Notice that Mayor Menino’s full name was Thomas Michael Menino and that, therefore, his initials were TMM.

front of their bosses!!! Be as specific as possible. Invite the official and staff to see your programs when you have events ...

learn (sic) what committees cover the areas of your interest & try to follow their activity and remember the less popular ones like agriculture that cover food & nutrition programs in CC sites. Easiest way to follow Congressional activity is through web sites like CDF's and also CQ Daily monitor which I believe is also available on line (sic) but for a cost...

Don't forget to include federal agencies in your field of vision. They make critical decision because much legislation allows them to and you can have huge impact this way. Follow the federal register available free on line (sic) through Thomas to see what draft regs are issued that you may have thoughts about. These include formulas for money distribution, priorities for how money should be spent etc.. (sic) try to get to know who in each agency oversees the programs you may care about (ie – 21st century comm learning ctr. decision to fund us w/out another rfp) ...

Keep a list of all your contacts. The two congressional folks here today are great ones to have, also [Ms. R] in Senator Kennedy's office in DC is the labor committee staffer who does childcare issues. Groups like PUCC are great contacts for info. (sic) as are staffers like myself who lobby just like you. (Ex. 3C)(**emphasis in original**)(emphasis added)

26. In an undated two (2)-page document, Ms. Siegal wrote, in part,

My job has a number of primary functional duties (4):
Lobbying/Advocacy/Government Relations for all legislative, budget & Resource development matters with state & federal government
Special project oriented work
Policy development
Advance & special event management

... Organized first ever and continue to **run ongoing citywide interdepartmental policy & planning team** which meets almost monthly with 20-30 senior level staff from across the city ... I created this forum when the Mayor's then chief of staff asked me to find out what the citywide impacts of the 1986 Welfare Reform Act would be ... **This group has now become an indispensable policy and planning tool for the Mayor's Office and is a permanent part of the IGR Offices** (sic) responsibilities ...

Lead city staff for planning National League of Cities 2000 (5,000 attendees) annual meeting and US Conference of Mayors 2004 (600 attendees) annual meeting both held in Boston and hosted by Mayor Menino ...

Created mission, goals and infrastructure for new office in Mayor's Office – Office of New Bostonians ...

Lobbied for successful federal designation for Boston to become a high threat urban area (one of 30 nationally in 2003) which led to eligibility for millions of dollars and managed subsequent citywide (& regional – 8 other cities and towns) homeland security planning resulting in a ten discipline

needs assessment, strategy and grant application for approximately \$40 million in state and federal dollars. **Created mission, goals and infrastructure for now established Mayor's Office of Homeland Security.** (disciplines included Police, Fire, HAZMAT, EMS, Public Health, Basic City Services, hospitals, & Mayor's Office across all 9 urban area communities).

Participated in successful effort to earmark \$50 million for Boston for security for the 2004 Democratic National Convention and served on city/state budget team which developed allocation and reimbursement plans for security funds.
(Ex. 3A)(**emphasis added**)

27. In another undated document, entitled "Dina's Ongoing Projects", Ms. Siegal wrote, in part,

... Office of New Bostonians
Success By 6 Leadership Council
Safe Neighborhoods Grants (review)
Local Law Enforcement Grants (review & monitoring) ...
Appropriations/Legislation ...
Welfare reform matters ...
Mayor's Foster Care proposal
IGR Police & Planning Group ...
(Ex. 3B)(**emphasis added**)

28. By memorandum dated May 30, 2007, Ms. Siegal wrote to TMM regarding "USCM/LA – Guns", writing, in part,

When we spoke last week, you said you would be interested in calling both Mayors Shirley Franklin and Doug Palmer and asking them for their assistance at Democratic Mayors (Friday evening the 22nd before you get to LA) in enlisting even more Mayors to sign up for MAIG.

Dewey Square Group is working the democratic mayor's (sic) event so they could be helpful with the paperwork and sign up.

It would be also be (sic) great if you could ask them both to join you at a press conference after the gun resolution passes on Monday ...
(Ex. 9)

On this memorandum, the Mayor wrote, "Dina". (Ex. 9; Testimony of Mr. Sullivan)

29. On a document dated May 26, 2010, Ms. Siegal described her work, in part, as follows,

Mayor's (sic) Against Illegal Guns – Staff coalition of over 500 mayors from

around the country in efforts to close loopholes, share best practices, develop innovative policies, and support legislation at the national, state and local levels that will help law enforcement target illegal guns. Coordinate the membership expansion, multi-city activity and creation of an ongoing federal agenda. Work to connect mayor's message nationally to Boston's neighborhoods and educate community residents about illegal guns and gun trafficking. Develop and distribute 'Where Did the Gun Come From' campaign.

Municipal Liaison – Work with mayors and local officials from around the Commonwealth on issues of concern to municipal government at the local, state and federal level. Represent Mayor Menino on [MMA] Board and Fiscal Policy Committee and on State Local Government Advisory Commission. Provide constituent services for all municipal officials. Represent Boston on Metropolitan Mayors Coalition. Am heavily involved in current efforts to give municipalities plan design authority and as well as other municipal finance work with the Office of Administration and Finance including local projects.

National Liaison – As part of IGR team, work as liaison to national organizations (US Conference of Mayors, National League of Cities, among others) on national and state issues and legislation of mutual concern. Work with department heads and cabinet members to identify and develop federal legislative and budget priorities. Provide advocacy and support for all city program priorities in Washington. Provide constituent services for nation's mayors and act as link for information and anything Boston related.

2010 Census – Oversight of City's effort leading up to this year's census. Coordinate with U.S. Census Bureau and US Department of Commerce. Part of IGR COB Census Team.

Chair, Shannon Grant Advisory Committee – Chair monthly multi-disciplinary/multi-city agency committee to direct strategic planning ...

Office Operations: Provide general supervision for office staff; have signing authority for any budget or personnel requisitions; support daily office operations and support staff; support any hiring/personnel process. ...

Since I have had at least two stints as Acting Director of IGR in the recent past, the office operations and management workload has gone up and down, as well as many of my responsibilities have moved around a lot as necessary. I have done both the straight federal job as well as pieces of the state job when we were between staff. I also helped create the resource development position as a way to glue together the work of the other units in the division and have done many pieces of that job as well. When I began working here in the federal position, many of the resource development responsibilities were part of the federal job. We worked hard to get the resources to create a separate position to support the work of the entire office and the city.

(Ex. 3D (***emphasis in original***)(emphasis added))

30. Ms. Siegal submitted a State of Financial Interests (SFI) to the Respondent in 2013. (Ex.

8B) The SFI general information addresses who must file an SFI, stating,

Executive Order, Boston Ethics Initiative of 1994 and Executive Order of May 13, 2009, requires every DESIGNATED PUBLIC EMPLOYEE, to file an annual STATEMENT OF FINANCIAL INTERESTS (SFI).

Police-making responsibility shall mean:

Individuals who exercise appointing authority; (sic)

- Individuals who are authorized to execute contracts on behalf of the city;
- Individuals who receive more than fifty thousand (\$50,000) dollars base payroll compensation from the city in any 12-month period in which the individual served more than thirty days, and
- Such other policy-making positions as the Director of Human Resources may determine.

(Ex. 8A)(emphasis, formatting and punctuation in original)

A “designated Public Employee” is defined as,

Any person who holds a MAJOR POLICY MAKING POSITION in a GOVERNMENT BODY, excluding persons who hold positions for which no compensation is authorized other than reimbursements for expenses and persons serving on a GOVERNMENTAL BODY that has no authority to expend public funds other than to approve reimbursements for expenses.

(Id.)

31. In the section of the SFI form that asks for the agency in which you serve, Ms. Siegal wrote “Mayor’s Office of Intergovernmental Relations”. (Ex. 8B)

32. In addition to Ms. Siegal, three (3) or four (4) other IGR employees were required to file an SFI. (Testimony of Ms. Siegal) Mr. Leibowitz filed an SFI when he worked at IGR. (Testimony of Mr. Leibowitz)

33. In an undated memorandum from Ms. Siegal to TMM, with an attachment, Ms. Siegal wrote,

Looking to put this in USA Today or Wall St. Journal when Supreme Court issues it’s (sic) ruling on the DC gun ban which is expected very soon. Press office has seen it.

Dina

(Ex. 9)

The Mayor responded to Ms. Siegal's memorandum, writing on it "Dina go for it".

(Id.; Testimony of Ms. Siegal)

34. By email dated June 20, 2007 to someone in Burlington, Vermont city government, Ms.

Siegal wrote, in part,

... We (Mayors Against Illegal Guns) are starting to round up support as the Tiahrt battle moves over to the Senate and were wondering if Mayor Kiss would be interested in sending a letter on Tiahrt to Senator Leahy? We did many of these letters over in the House from mayors and they were very effective. I am attaching a draft of what we have been using for your review. ...
(Ex. 10)

The person to whom Ms. Siegal sent this message was the Chief of Staff to the Mayor of Burlington, Vermont. (Testimony of Mr. Sullivan)

35. By memorandum from Ms. Siegal to TMM, dated March 3, 2008, regarding "MAIG

Summit in April, Ms. Siegal wrote, in part,

... NYC has asked if we could once again contribute to the budget for this event. We are looking at about an \$85,000 total budget and if we could raise about \$10-\$20,000 for it that would be ideal. I gave Julie Burns a heads up that this was on the horizon. We are working hard to get the coalition over 300 mayors, as well as get at least 50 mayors to attend on April 14th. We will likely be asking you to make some calls and outreach to mayors who are not yet confirmed for April 14th. This time we will be opening up the Summit to more of our partners to attend. There will be a closed session for mayors only at the beginning and then it will be open for partners and the press. ...
(Ex. 10)

36. By email from Ms. Siegal to a person in New York City Hall, dated May 21, 2008, Ms.

Siegal wrote, in part,

Hoping to send this out today, with the draft letter attached ...
Dear coalition mayors and staff:
As you know, **last year the coalition strongly opposed several pieces of legislation** that would have tied the hands of law enforcement and damaged efforts to keep criminals from getting guns. **We were pleased that the**

coalition's efforts helped to defeat HR 5005, HR 5092 and HR 1384, as well as a more restrictive version of the Tiahrt Amendment.

Now, some in Congress have repackaged provisions of those old bills into a new bill, HR 4900. The provisions include:

Making trace data restrictions permanent and removing improvements made in trace data access

Slanting license revocation procedures in favor of law-breaking gun dealers

Blocking ATF from updating record-keeping

Creating an unnecessarily high evidentiary standard in licensing proceedings

Allowing 60-day 'dirty dealer firesales'

We have attached a draft letter to the Congressional leadership opposing HR 4900, which goes into greater detail ...

(Ex. 10)(**emphasis added**)

37. Ms. Siegal and a person in New York City Hall were "co-chairs" of MAIG. (Ex. 10)

However, NYC staff did a significant amount of the writing in this regard and Ms. Siegal edited the drafts since NYC had more resources. (Testimony of Mr. Sullivan; Testimony of Ms. Mayer)

38. By memorandum dated July 16, 2009 to TMM from Ms. Siegal, she wrote, in part,

Attached please find a draft report that we have been working on since last December that makes administration recommendations to the Obama administration on ways they can improve enforcement of existing laws to combat gun trafficking. The recommendations fall into 5 major categories and all are consistent with MAIG principles. The categories are: Improving Gun Background checks, Policing Problematic Gun shows, Supplementing AFT Resources and Improving Its Structure, More Effective Crime Gun Tracing & More Effective partnerships Among Government, Law Enforcement, Community Groups, and Responsible Gun Industry Representatives.

The hope is to submit this (draft attached) to the President next week.

Please let me know if you have any questions or comments. While MAIG will likely issue a joint release, this may be something you want to play up locally.

On another note, **Governor Patrick has decided to seize momentum from the Judiciary hearing the other day** and has scheduled to do a Traffick Jam (similar to the event you did with Kevin Burke at Orchard Gardens in May) in Lowell next Tuesday, from 10:30a.m. – 12:00p.m. You are of course invited to be there if you would want to go.

(Ex. 10)(**emphasis added**)

39. By email from Ms. Siegal to many mayors, dated March 26, 2013, Ms. Siegal provided information about a March 28 MAIG National Day to Demand Action adding, in part,

... **Grassroots supporters of MAIG across the country will organize events and petition drives and generate an unprecedented number of calls into Senate district offices to call for their representatives to support commonsense gun laws ...**
(Ex. 10)(**emphasis added**)

Ms. Siegal signed the email message “Dina Siegal Office of Mayor Thomas M. Menino”. (Id.)⁷

40. By email dated January 12, 2009 from a person at MMA to Ms. Siegal, that person wrote, in part,

... **The MMA municipal assistance bill includes two provisions from the MMA legislative package approved by the Board of Directors [meals tax and health insurance] and others not from the package but that are consistent with our positions.** I have used telecommunications property tax language that [an individual] sent me today, charter school finance language that I drafted, and room occupancy language from MPA (amended) and from the Cape bill extending the excise to seasonal rentals. ...
... the MMA municipal assistance legislation that will be the topic of the municipal caucus meeting tomorrow at the State House room A1, 11-12. ...
(Ex. 12)(**emphasis added**)

41. An email message dated September 30, 2005 from a person at MMA wrote to Ms. Siegal, in part,

... The report will make the case that adequate state financial support for local government services is vital to the continued economic prosperity of Massachusetts. [An individual] has prepared an analysis comparing growth in personal income in Massachusetts to growth in municipal revenues and spending by type. School spending tracks income growth while police, fire and public work fall far short. [The same individual] has also done an analysis of municipal stress using the change in household income and property tax levy as measures of stress. [Another individual] is comparing state-local financial relations in 12 comparison states. This section is an outline only ...
(Ex. 13)

42. In a memorandum from Ms. Siegal to Mayor Menino dated October 3, 2011, Ms. Siegal wrote, in part,

Mayor, I am attaching full notes from the meeting we had on September 23rd.

⁷ Exhibit 10 contains a number of similar email messages and memoranda involving Ms. Siegal.

In a nutshell, the members of the group were very impressed with the ambition of the mission to really take our violence prevention efforts to the next level. The themes of coordination and collaboration resonated with everyone, and they were energized to get to work in applying their expertise in information, resources and messaging.

Many members listed several immediate action steps in terms of collecting and sharing information, and stressed the need to follow up in between meetings with a series of conference calls to maintain momentum. ...

Are you okay with us giving them info on cuts to Stryve for them to advocate for?
YES__ NO __

We will also be asking them to help fill out a matrix with their expertise that we can tap into ...

(Ex. 14)

43. By memorandum to Mayor Menino from Ms. T, a lobbyist for the Mayor and/or the City of Boston, copied to Ms. Siegal and others, dated February 2, 2005, Ms. T updated the Mayor about “a meeting we had with executives from Verizon”. (Ex. 15; Testimony of Ms. Siegal)
44. There were two (2) IGR employees who were legislative agents for the Respondent at the State House. In addition, the Respondent contracted with Ms. Virginia Mayer, who works in a Washington, D.C. office as a legislative agent with the federal government. (Testimony of Ms. Siegal; July 15, 2014 Affidavit of Ms. Siegal)
45. Ms. Virginia Mayer represents the City of Boston and/or the Mayor in Washington, D.C. as a contract employee who works with the IGR team. She was hired in 1998 and worked with Ms. Siegal. She is a registered lobbyist to Congress and federal executive branch agencies. She also represents a couple of other cities and mayors but she spends the vast majority of her time representing Boston and/or the Mayor. She advocates for the City and/or the Mayor regarding federal policy and legislation on a wide variety of issues. IGR assembles the City’s and/or the Mayor’s financial requests for the federal government as a team, working with City Departments for input. (Testimony of Ms.

Mayer) Ms. Mayer worked with Ms. Siegal and, on occasion with Mr. Leibowitz, to identify federal funding priorities in fiscal years 2002, 2003 and 2007, they would discuss them with the Mayor and Ms. Mayer would advocate for those priorities in Washington, D.C. (Exs. 17A, 17B, and 17C) Ms. Siegal and Mr. Leibowitz would advocate for the same priorities with the Massachusetts Congressional delegation when they were home. Ms. Mayer's primary contact at IGR was Ms. Siegal and Mr. Leibowitz. Ms. Siegal was the second most senior person at IGR and signed off Ms. Mayer's paycheck. Sometimes when there was a vacancy in the Director position, Ms. Siegal would act as the Acting Director, although there was no definitive decision stating that Ms. Siegal had been appointed Acting Director. Ms. Mayer worked with Ms. Siegal on a variety of issues, such as the federal budgetary request, illegal guns. Ms. Siegal was the lead person on homeland security issues. She also attended January meetings for the MMA in Washington, D.C. and assisted the Mayor when he was president of the U.S. Conference of Mayors in 2002. She also attended meetings in Washington, D.C. as part of a team seeking support for the City's or the Mayor's youth programs. After the Newtown Connecticut elementary school shootings, Ms. Siegal went to Washington D.C. to help affected families get around on Capitol Hill to try to get gun legislation enacted.

(Testimony of Ms. Mayer)

46. In late 2013 or early 2014, Mr. James Sullivan was appointed Director of IGR. He has no civil service title; he has an appointive position, having been appointed by Mayor Walsh. Mr. Sullivan was first employed by the Respondent in July 2001 after Ms. Siegal interviewed him and recommended to Mr. Leibowitz that the Respondent hire him. He worked on Federal Relations in IGR from 2001 to 2011 when Ms. Siegal was employed

at IGR. In 2013, Mr. Sullivan was Chief of Staff for the Mayor's Office of Strategic Investment but he then returned to IGR. (Testimony of Mr. Sullivan)

47. Based on Mr. Sullivan's knowledge and experience, the role of IGR is to pursue the Mayor's policies, address the Mayor's legislative and funding goals at the Federal and State levels, represent the Mayor at various organizations and interact with the Massachusetts Congressional delegation. When Ms. Siegal was IGR Deputy Director, she represented Mayor Menino at MMA and she sat in for the Mayor at the Metro Mayors' group. Mr. Sullivan worked on the illegal guns project with Ms. Siegal but he confirmed that Ms. Siegal was the lead on the project in IGR. Ms. Siegal lobbied regarding health insurance reform and the local meals tax. She oversaw the work done by two (2) IGR staff persons who developed the Mayor's legislative package for the State House and the Mayor's budget position. Ms. Siegal was the Mayor's primary staff member at the Local Government Advisory Committee and she led the IGR work group, which was comprised of representatives of the different Departments in Boston. She signed off on IGR staff time. Ms. Siegal was Acting Director of IGR sometimes during the gaps in time when Directors left the office. The IGR is now under the Mayor's Chief of Operations and it has been restructured, eliminating the job of the Deputy Director, transferring some of those responsibilities to Mr. Sullivan and some to a Chief of Staff, which is a new position at IGR. (Testimony of Mr. Sullivan) (Testimony of Ms. Siegal)
48. After the mayoral election in November, 2013, Ms. Siegal and other City Hall employees were discussing their civil service status out of concern that they would lose their jobs. (Testimony of Ms. Siegal)

49. As of April 2014, there were nine (9) employees in IGR; everyone except Ms. Siegal, the City Council liaison and the director, were union members at IGR. (Testimony of Ms. Siegal; Testimony of Mr. Killarney)

50. On May 1, 2014, Ms. Siegal was at work when she was called to a meeting with Mr. Sullivan, the IGR Director at the time, and Attorney Maribeth Cusick, of the Respondent's Law Department. Ms. Siegal was told that the new Mayor's administration was going in a different direction and handed her a letter stating,

This letter is to inform you that your employment with the City of Boston is terminated effective Thursday May 1, 2014. Enclosed please find instructions on how to file for Unemployment Insurance Benefits.

Your check for all accrued but unused vacation time and any other pay to which you are entitled will follow in the next regular pay cycle. Information about your benefits will also follow separately.

Sincerely,
James Sullivan
Director of Intergovernmental Relations
Encl.
(Joint Statement of Facts, section I)

51. The May 1, 2014 letter did not reference or provide copies of G.L. c. 31, §§ 41-44. The Respondent did not provide notice of, nor conduct a disciplinary hearing concerning termination of Ms. Siegal's employment.⁸ (Administrative Notice)

52. A May 5, 2014 form referred to as a "Request to Change Employment Status" for Ms. Siegal authorizing a change in her employment status states that the change was "elimination of position". (Joint Statement of Facts, section I)

⁸ A May 5, 2014 form referred to as a "Request to Change Employment Status" for Ms. Siegal authorizing a change in her employment status states that the change was "elimination of position". (Joint Statement of Facts, section I) Since the termination letter given to Ms. Siegal does not state that her position was abolished, it is unclear whether her position was abolished. However, such a determination is not dispositive if a municipal employee in Ms. Siegal's situation is exempt from civil service.

53. Ms. Siegal was surprised that the Respondent wanted her to leave the office that day because in the Mayor's office people were given two (2) weeks' notice. (Testimony of Ms. Siegal)

54. Over the twenty-three (23) years that Ms. Siegal worked in IGR, her salary was raised on numerous occasions such that, by the time that her employment was terminated, Ms. Siegal's annual salary was \$117,608.77. (Joint Statement of Facts, section E)

55. Ms. Siegal filed the instant appeal at the Commission. (Administrative Notice)

Job Titles and Compensation

56. There are three (3) lists of employment titles in the record from the Respondent:

Ex. 5A, "Rules for Administering Pay Schedule and List of Positions Which, With These Rules, Constitute Compensation Plan Effective March 6, 1963, As Amended Through March 4, 1970 for Certain Employees of City of Boston"⁹ [Boston Compensation Plan];

Ex. 5B, Management Development and Compensation Plan [1974 Boston Management Plan] ... to all managerial employees of the City of Boston who are Executive Officers of the City of Boston under the provisions of General Laws, Chapter 149, Section 178G, or who are excluded from bargaining under the provisions of General Laws, Chapter 150E, effective July 1, 1974, or who have been excluded from membership in a Union and are deemed Executive Officers by agreement with a Union. This list of managers covered by this Plan shall consist of

- (1) Those appointive managers whose salary is determined by statute or ordinance ... and
- (2) Those managers whose positions are identified in the City of Boston Compensation Plans by a compensation grade with a prefix MM, ...
- (3) Those appointive managers whose positions are identified in Attachment VI to this Plan[;]¹⁰ and

Ex. 5C, the 1974 "Boston Classification Plan".
(Exs. 5A, 5B, and 5C; Testimony of Ms. Salas)

⁹ The Respondent averred that this document is still in use.

¹⁰ Among other things, Exhibit 5B converted the "R" pay scale to the MM pay scale (with pay grades from MM-1 to MM-11). (Ex. 5B)

57. Neither Ex. 5A, 5B nor Ex. 5C contain job descriptions. Exhibits 5A and 5C have numerous handwritten notations, indicating, for example, when titles were added, deleted or changed until the Respondent started using computers fifteen (15) or twenty (20) years ago. Exhibit 5C has no Middle Manager (MM) titles or pay scales since it did not exist until 1974 and it predates Exhibit 5A. Exhibit 5A and Exhibit 5C share some title similarities but Exhibit 5C is much longer than Exhibit 5A. Neither Exhibit 5A or Exhibit 5B contains titles for a general PAA, Deputy Director or Legislative Counsel. Exhibit 5B includes the following titles of note: “Principal Administrative Assistant, Medical Records”, “Principal Legal Assistant”, “Senior Legal Assistant (Law Department)”, “Senior Legal Assistant (Assessing Department)” and “Senior Legal Assistant and Researchist”. In Exhibit 5C, there is a PAA title listed but there are no Deputy Director or Legislative Counsel titles therein. (Exs. 5A, 5B and 5C; Administrative Notice; Testimony of Ms. Salas)
58. There is a manual of municipal job titles entitled, “Municipal Classification Plan for Massachusetts containing Civil Service Job Titles and Definitions Authorized by Director of Civil Service and Approved by the Civil Service Commission” [1974 Municlass Manual]. The 1974 Municlass Manual contains detailed job series, titles and job descriptions in municipal civil service. There is no PAA, Deputy Director or Legislative title in the 1974 Municlass Manual. (Administrative Notice – 1974 Municlass Manual)
59. Although there is no PAA title in the 1974 Municlass Manual, there is an Administrative Assistant title therein. The job description for Administrative Assistant, is in the Administrative Assistance Series, which provides,

This series includes positions the duties of which are to be responsible for **assisting the head of the organization by performing a variety of**

management and liaison services that are essential to the direction and operation of an organization. A knowledge and understanding of management principles, practices, methods, and techniques and skill in dealing with people are the paramount qualifications ... Excluded from this series are positions of Clerks. (Administrative Notice - 1974 Municlass Manual)(emphasis added)

60. There is only one title in the Administrative Assistance Series in the 1974 Municlass Manual and it is the title of Administrative Assistant. The Administrative Assistant,

Assists the head of a department in the administration of that organization by performing **highly responsible administrative and clerical functions and relaying administrative orders** and other information to employees; acts as a confidential secretary to a department head; works with the department head in developing and implementing policies and procedures to be followed; plans and supervises administration of the immediate office including personnel records maintenance, fiscal and accounting operations, departmental expenditures and purchases, and preparation and disbursement of payrolls; prepares fiscal, statistical or progress reports, and budget requests; interviews and hires job applicants; acts as **liaison with other departments or agencies; aides in public relations work; and may also assist in bringing industry to the municipality, the responsibility of grant administration and the preparation of contracts.** (Administrative Notice - 1974 Municlass Manual)(emphasis added)

61. The 1974 Municlass Manual contains a “Legal and Kindred Group”, which includes a Legal Counselor Series described as follows,

This series includes positions the duties of which are to advise on, administer, supervise, or perform professional legal work arising from the operation of a governmental department or agency; **positions require graduation from a recognized law school but do not require admission to the bar.** The following job titles are authorized for use in the Legal Counselor Series. The title definitions include illustrative duties and are not all inclusive.

Legal Counselor

Provides legal and technical assistance to a particular agency or department; **interprets codes, by-laws, ordinances, and statutes; prepares court cases; provides legal assistance at all department hearings; advises on action to be taken considering legal ramifications;** may supervise several legal aids or clerks.

(Administrative Notice – Municlass Manual, p. 199)(emphasis added)

62. The 1974 Municlass Manual contains a Legal Administration Series within the Legal and Kindred Group. It provides, in part,

This series includes positions the duties of which are to **perform, supervise or administer sub-professional legal work in which a general knowledge of laws, rules, and regulations is required** in a particular office or situation. **Also included are clerical positions requiring legal background; not included are positions which require graduation from a law school.**

The following job titles are authorized for use in the Legal Administration Series. The title definitions include illustrative duties and are not all inclusive.

Legal Assistant

Responsible for **researching and providing legal assistance** to a lawmaking body, agency, department, or other organization; **assists in revising ordinances; researches the General Laws for specific legislation; may establish and maintain an indexed catalogue of legislation; examines pending legislation for its applicability** to the organization of municipal government; and **performs related legal duties and assistance.**

Title Examiner

Examines deeds as the Registry of Deeds

(Administrative Notice – Municlass Manual, p. 200)(emphasis added)

63. There is no Legislative Counsel title in the 1974 Municlass Manual, the 1998 HRD List or Exhibits 5A, 5B or 5C. (Administrative Notice)
64. There is a PAA title in the 1998 HRD List but there is no Deputy Director title. The 1998 HRD List does not contain job descriptions. (Administrative Notice – 1998 HRD List)
65. The 1998 HRD List includes the titles Legal Counselor and Legal Assistant.
(Administrative Notice – 1998 HRD List)¹¹
66. Ms. Ramona Salas has been the Director of Classification and Compensation in the Respondent’s Human Resources office for approximately twenty (20) years and she worked for the Respondent approximately twenty (20) years before that. Although

¹¹ To summarize, the PAA title appears only in Exhibit 5C and in the 1998 HRD List but has no job description. The titles of Deputy Director and Legislative Counsel do not appear on any of the lists cited herein.

Following a request in a letter dated April 8, 2015 from the Director of the Respondent’s Human Resources office and the Chief Financial Officer to Mayor Walsh, the Mayor issued the following,

“ORDERED: that the City of Boston Management Development and Compensation Plan, effective January 1, 1974, be and hereby is amended for all non-union jobs throughout the City of Boston. All such jobs will be appointive positions and will be assigned an appropriate functional job title as determined by the Director of the Office of Human Resources in consultation with the relevant department head. No non-union appointive position will be classified as a Principal Administrative Assistant, an Executive Assistant or an Executive Secretary. This amendment will be retroactive to January 6, 2014.”

(Ex. 7)

Director of Classification and Compensation is her functional title, Ms. Salas' permanent civil service title is senior administrative assistant, which she obtained when she took an exam in the 1980s. Based on Ms. Salas' knowledge and experience, sometime after the 1974 Boston Management Plan, the PAA title became a "dumping ground" for higher titles, turning not on the job duties but on the desired salary. (Testimony of Ms. Salas; Ex. 5B) Ms. Salas was not involved in the Respondent's decision to seek civil service permanence for certain employees that led to St. 1998, Chapter 282; she questioned whether certain titles fell within civil service. Ms. Salas did not evaluate Ms. Siegal's job description when Ms. Siegal was promoted to IGR Deputy Director in 2000. (Testimony of Ms. Salas)

67. Mr. Bernard Killarney has been the Director of Operations in the Respondent's Human Resources office since November 2014. Previously he worked at a number of positions, such as the Youth Activities Commission, the South Boston Community Health Center, Boston City Hospital and the Boston Health Commission. He has been a member of the executive board of the Salaried Employees of North America (SENA) Local of the United Steel Workers, which union represents certain managers and supervisors in Boston city government, and negotiated collective bargaining agreements. Based on Mr. Killarney's knowledge and experience, Ms. Siegal was not a member of SENA and was not paid on the SENA union salary scale. Many Boston employees have two job titles – one that looks like a civil service title and another related to the work they were doing. The PAA title was often used for employees in different jobs, some of which were union and some were not, no matter what he did to address this. This included employees who were part of the Mayor's team, a number of whom were made permanent civil service

employees under St. 1998, Chapter 282. The purpose of Chapter 282 was to make certain provisional employees permanent under civil service. About one-third of SENA members became permanent under St. 1998 Chapter 282. (Testimony of Mr. Killarney)

68. Managers in the Mayor's office are on the "MO" pay scale, not like Ms. Siegal who, as of at least January 14, 2002 was on the MM2 pay scale. (Ex. 6A; Ex. 2; Testimony of Mr. Killarney)¹²

Applicable Law

The basic merit principles of civil service include, in part,

... (d) retaining of employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected; (e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap, or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and; (f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.
(G.L. c. 31, § 1)

Chapter 31 defines a civil service employee as "a person holding a civil service appointment" *Id.* It defines a civil service position as "an office or position, appointment to which is subject to the requirements of the civil service law and rules." *Id.* It also provides that a permanent employee is "a person who is employed in a civil service position (1) following an original appointment, subject to the serving of a probationary period as required by law, but otherwise without restriction as to the duration of his employment; or (2) following a promotional appointment, without restriction as to the duration of his employment." A provisional employee is an employee who is appointed "... if no suitable eligible list exists from which certification of names may be made for such appointment ..." pursuant to sections 12-14

¹² See Exhibits 6B, 6C and 6D regarding Middle Managers' pay scales for SENA union members and Middle Managers who are not members of SENA and Exhibits 20A, 20B and 20C for manager pay scales in the Mayor's office.

of G.L. c. 31. Chapter 31 further defines a **tenured employee** as a civil service employee who is employed following (1) an original appointment to a position on a permanent basis and the actual performance of the duties of such position for the probationary period required by law or (2), a promotional appointment on a permanent basis.” G.L. c. 31, § 1. If an employee is not tenured, the Commission lacks jurisdiction to hear the employee’s appeal. Board of Selectmen of Brookline & Brookline Police Department, 58 Mass.App.Ct. 813, 815 (2003)(police officer who left training during probationary period because of illness was reinstated pending completion of training but was terminated when he again failed to complete training as he was still in probationary period and not tenured).

Sections 41 – 44 of G.L. c. 31 establish the manner in which civil service employees may be disciplined or removed from their position. Specifically, G.L. c. 31, § 41 provides, in part,

... Except for **just cause** and except in accordance with the provisions of this paragraph, a **tenured employee** shall not be discharged, removed, suspended for a period of more than five days, laid off, transferred from his position without his written consent if he has served as a tenured employee since prior to October fourteen, nineteen hundred and sixty-eight, lowered in rank or compensation without his written consent, nor his position be abolished.

Id. (emphasis added)

The Commission’s role in hearing cases involving a **tenured** civil service employee under such a “just cause” standard is well established. In adjudicating such matters, the Commission looks to see if “the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority.” Cambridge v. Civil Service Comm’n., 43 Mass. App. Ct. 300, 304 (1997). A “reasonable justification” means that the appointing authority’s actions were based on adequate reasons supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and correct rules of law. Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482

(1928); Commissioners of Civil Service v. Municipal Ct. of the City of Boston, 359 Mass. 214 (1971).

Where the Commission finds by a preponderance of the evidence that there was just cause for the action taken by the appointing authority against a tenured civil service employee, the Commission shall affirm the appointing authority. Falmouth v. Civil Service Comm'n., 61 Mass.App.Ct. 796, 800 (2004). While it is the role of the Commission to “guard against political considerations, favoritism, and bias in governmental employment decisions ... [i]t is not within the authority of the commission, however, to substitute its judgment about a valid exercise of discretion based on merit or policy considerations by an appointing authority.” Id. at 800, quoting City of Cambridge, 43 Mass.App.Ct. at 304. The Commission’s role in applying the “just cause” standard in matters involving the abolition of a position for reasons of economics and efficiency is more “narrow” than the scope of review to be applied in disciplinary actions. See School Comm. of Salem v. Civil Service Comm’n, 348 Mass. 696, 699 (1965); see also Debnam v. Belmont, 388 Mass. 632, 634-36 (1983); and Commissioners of Civil Service v. Municipal Court of the City of Boston, 369 Mass. 84, 88 (1975). The fundamental premise that the abolition of an unnecessary position made in good faith plainly is the duty of an executive or administrative officer. Gardner v. Lowell, 221 Mass. 150, 154 (1915) citing Garvey v. Lowell, 199 Mass. 47, 49 (1908). The layoff of employees is not justified if the proffered reason for their dismissal was pretextual and their discharge was the product of improper motivations. City of Cambridge Housing Authority v. Civil Service Comm’n, 7 Mass.App.Ct. 586, 589 (1979); see also Raymond v. Civil Service Commission and Athol Fire Department, Memorandum of Decision and Order in Suffolk Superior Court Civil Action 06-3871-C (12/9/08), p. 11; and Milanoski and Ross v Attleboro Redevelopment Authority, D1-09-417 (lack of funding was

pretext for political considerations) , *aff'd Attleboro Redevelopment Authority v. Civil Service Commission, Milanoski and Ross*, BRCS2011-00688, Attleboro Redevelopment Authority v. Civil Service Commission, et al, 12-P-15-29 (2013)(Mass.App.Ct. Rule 1:28).

G.L. Chapter 31 also establishes exemptions from civil service, in pertinent part, “unless expressly made subject thereto by statute”, as follows,

... City and town managers and assistant city or town managers, and administrative assistants, secretaries, stenographers, clerks, telephone operators and messengers **connected with the offices of city councils, town councils, mayors, city managers, town managers and selectmen. ...**

Counsels, attorneys-at-law, including attorneys designated as counsel or counsellors-at-law, city solicitors, assistant city solicitors, town counsels and assistant town counsels. ...

Employees of the treasurer and collector of taxes in any city or town.

Executive directors of councils on aging.

Heads of departments, members of boards and commissions, chaplains employed as such, members of authorities and other officers appointed by the governor or whose appointment is subject to approval by the governor, and **heads of municipal departments. ...**

Legislative counsel in cities or towns. ...

Officers elected by popular vote and persons appointed to fill vacancies in elective positions.

(G.L. c. 31, § 48)(emphasis added)

Section 48 reflects an understanding of the structure and various functions of local governments in the Commonwealth. As noted by the Supreme Judicial Court in City Council of Boston v. Mayor of Boston, 383 Mass. 716 (1981),

Under the city charter the mayor is head of the head of the executive branch of city government. As such, the mayor is charged with the administrative duties of city government, including the supervision of subordinate officers in the discharge of their duties (St. 1909, c. 486, §§ 6, 7), and the exercise of numerous powers of appointment (St. 1909, c. 486, § 9), since the power of appointment is, by its nature, an executive

power. Attorney Gen. v. Varnum, 167 Mass. 477, 480, 46 N.E. 1 (1897); Murphy v. Webster, 131 Mass. 482, 488 (1881). The mayor is charged with the duty ‘to secure the honest, efficient and economical conduct of the entire executive and administrative business of the city.’ St. 1885, c. 266, § 6. These grants of authority and responsibility to the mayor necessarily imply grants of implicit power to carry out the authority expressly conferred. In recognition of the mayor’s need for staffing flexibility, the charter provides that certain members of the mayor’s staff are exempt from civil service laws, and the staff members serve at his pleasure. St. 1909, c. 486, § 15. Incident to the mayor’s power to hire and fire his personal staff is the power to set their compensation. See Whalen v. First Dist. Court of E. Middlesex, 295 Mass. 305, 310, 3 N.E.2d 1005 (1936); Smith v. Lowell, 190 Mass. 332, 333, 76 NE. 956 (1906); Faulkner v. Sisson, 183. 524, 526, 67 N.E.669 (1903).
Id. at 721.

Credibility

In her testimony, Ms. Siegal repeatedly denied and/or attempted to diminish her role at IGR to assert that she is not exempt from civil service since she did not lobby, she was not involved in policy making and she was not connected with the office of the Mayor. For example, when asked about her contact with Mayor Menino, she said that lots of other people in IGR were in contact with the Mayor and that the Mayor had an “open door” so that anyone could meet with him. Further, she alleged that when she was Deputy Director of IGR, after IGR Director Leibowitz left the office, everyone at IGR did what they wanted to do so that she had no real authority in IGR. Although she stated that she was the key staff person on the gun safety issue, she averred that someone took the assignment from her. She alleged that although she attended a number of meetings with legislators, she said that she made it clear to them that it was not her job to do so and that her efforts were limited to doing background work. Although she acknowledged that, as Deputy Director of IGR she signed the office payroll, she asserted that she did not even look at it. With regard to certain IGR initiatives, Ms. Siegal asserted they were the result of team work. She denied ever giving the Mayor policy advice while she conceded that there were times when it was necessary for her to do so. Ms. Siegal asserted that her work with

the MMA for the Mayor was behind the scenes since the MMA had its own lobbyists. These assertions are self-serving and are undermined by considerable evidence to the contrary, including her own writings and the testimony of Mr. Leibowitz, Ms. Sullivan and Ms. Mayer, regarding her many, long-term and clear involvements in policy matters, her direct communications with the Mayor, her status as the Mayor's representative in various matters, her pursuit of implementation of the Mayor's priorities and goals, and her filing of the Statement of Financial Interest because of her policymaking position. For these reasons, I find that Ms. Siegal's credibility was limited.

Mr. Leibowitz, Ms. Mayer and Mr. Sullivan testified based upon years that they worked with Ms. Siegal. They each spoke positively of Ms. Siegal. Mr. Leibowitz worked with Ms. Siegal from 1991 until he left IGR in 2004. Therefore, most of his knowledge involved Ms. Siegal's performance prior to 2004, as he admitted. While he understood that he and Ms. Siegal held at least provisional civil service titles involving clerical functions, he straightforwardly testified that neither of them performed clerical functions. He also testified that he had limited knowledge about how civil service titles were assigned. He believed that his own civil service title at IGR was PAA, like Ms. Siegal. However, as it was pointed out to him, his civil service title had been Executive Assistant. On occasion, Mr. Leibowitz appeared reluctant to answer questions directed to him, although it was unclear if the reason was that he did not know the answer, did not recall or he did not want to answer. Overall, I find that Mr. Leibowitz was credible.

Ms. Mayer testified based on her extensive work history with Ms. Siegal, albeit from a physical distance since she is contracted to work in the City and/or the Mayor's Washington Office on federal legislation and pertinent federal executive branch matters. Her testimony was

straightforward and without hesitation. She answered questions in a prompt and detailed manner, evincing her knowledge, recollection and confidence. For example, Ms. Mayer testified, like Mr. Sullivan and Mr. Leibowitz, that Ms. Siegal was the lead contact on MAIG but also articulated that although Ms. Siegal was involved in writing certain MAIG documents in connection with the office of the Mayor of New York City, the latter often wrote initial documents since it had more resources than Boston and Ms. Siegal would edit the documents. I find that Ms. Mayer was credible.

Mr. Sullivan testified in a professional and forthright manner. His testimony reflected his years of experience working with Ms. Siegal and the work done at IGR, consistent with the testimony of Mr. Leibowitz and Ms. Mayer. He testified that Ms. Siegal's position had been eliminated. I note that the termination letter he and Attorney Cusick gave to Ms. Siegal on May 1, 2014 did not mention that her position was terminated. However, as found herein, Joint Statement of Facts, section I indicates that Ms. Siegal's position was abolished.¹³ There is no indication that Mr. Sullivan intended to mislead the Commission since he testified that some of Ms. Siegal's tasks had been assigned to him and others were assigned to a Chief of Staff, which position had not existed previously. Mr. Sullivan disclosed that it was he who was asked to, and did produce a number of the documents in evidence concerning the work that Ms. Siegal had performed. For these reasons, I find Mr. Sullivan was credible.

Ms. Salas testified about Ms. Siegal's PAA title and the Respondent's other titles and compensation. She has been employed in the Respondent's Human Resources office for forty (40) years and in charge of Compensation and Classification for approximately twenty (20) years. She has the historical, as well as current, knowledge about the Respondent's lists and

¹³ I make no determination whether Ms. Siegal's position was abolished since she was terminated because her position was exempt from civil service.

relevant titles, when and how they were created, maintained and applied. She testified in a straightforward manner, directly responding to questions based on her knowledge. She acknowledged that she was not involved in the Respondent's efforts seeking the passage of St. 1998, Chapter 282, making certain provisional employees permanent because she had questioned the manner in which certain titles had been applied. The testimony of Ms. Salas was credible.

Mr. Killarney testified about various pay scales for union (specifically SENA) and non-union middle managers and supervisors. Mr. Killarney has had many years of experience working for the Respondent in different capacities. In addition, he has served on a union executive committee and negotiated a number of collective bargaining agreements. In November 2014, he was Director of Operations for the Respondent's Human Resources office. Mr. Killarney's testimony indicated significant detailed knowledge of the pertinent pay scales, indicating which positions were union positions and which were not. He also testified knowledgeably about the reasons for enactment of St. 1998, Chapter 282. Mr. Killarney's testimony was credible.

The Parties' Positions

Ms. Siegal avers that her title at the time that she was terminated from employment was Principal Administrative Assistant, the civil service title into which she was originally hired provisionally; that she became a permanent civil service employee under St. 1998, Chapter 282; that she was not within the Mayor's office; that her high salary does not undermine her status as a Principal Administrative Assistant; that she was not a policymaker; that she was not exempt from civil service as a Legislative Counsel since she is not an attorney; and, therefore, she was a tenured civil service employee when she was terminated from employment and should be

reinstated retroactively to the date of her termination without loss of compensation or other rights.

The Respondent avers that Ms. Siegal was not a tenured civil service employee because she was a Legislative Counsel, which is exempt from civil service under G.L. c. 31, § 48. It also argues that Ms. Siegal was hired provisionally and not made permanent under St. 1998, Chapter 282 because she was promoted to the position of Deputy Director of IGR prior to being made permanent. Further, the Respondent states that Ms. Siegal is also exempt from civil service under G.L. c. 31, § 48 because she worked in connection with the Mayor, was involved in policymaking, and was involved in implementing the Mayor's policies and goals. In addition, the Respondent asserts that Ms. Siegal is exempt from civil service because she was Acting Director at IGR at times; held herself out as an employee of the Mayor's office; she represented then-Mayor Menino in the Respondent's relationships with legislators and external organizations; and she earned an executive salary. Further, the Respondent asserts that Mayor Walsh, like his predecessor, is entitled to have a staff person of his choice in such a policymaking position.

Analysis

The Respondent has proved by a preponderance of the evidence that the Appellant was exempt from civil service at the time that it terminated her employment. Central to this decision is a determination of whether Ms. Siegal was a tenured civil service employee with civil service rights under G.L. c. 31, §§ 41-44 upon her termination of employment. Ms. Siegal was hired as a PAA in 1991 as a provisional employee. The PAA title appears in Ex. 5C, the Respondent's Classification Plan, and in the 1998 HRD List but with no job description. The PAA title does not appear in other documents, including the 1974 Municlass Manual.¹⁴ Although the PAA title

¹⁴ The 1974 Municlass Manual contains a "General Administrative, Clerical and Office Services Group" including the following series: Clerical Series (titles: Clerk, Senior Clerk, Principal Clerk, Head Clerk, Head Administrative

appeared on Ms. Siegal's paycheck, no one at IGR referred to her as a PAA. However, the PAA job description and qualifications available to Ms. Siegal when it hired her provided that the PAA "... performs work of considerable difficulty as senior policy analyst for the Federal Relations Office", acts as "Liaison with city human service agencies and national human service organizations", "prepares detailed reports and analysis on the impact of federal human service legislation, programs, and regulations", and "[w]orks with Mayor and Department heads to prepare testimony, reports, and legislation for submission to relevant Congressional committees". Ms. Siegal's professional experience prepared her well for this position. She had worked in a Congressional office, and then worked in two different grassroots lobbying organizations in Washington, D.C. She also worked for several years in the State House for a state Senator, performing several considerable legislative assignments. While working at the State House, she also earned an advanced college degree in Public Affairs.

However, in 2000 Ms. Siegal was promoted to IGR Deputy Director, removing her from civil service. The Deputy Director title does not appear on any of the job title lists noted herein. A preponderance of the evidence establishes that through the date of her termination, as Deputy Director, Ms. Siegal did not perform the duties of a PAA or any other civil service position. Rather, she performed the job of a Legislative Counsel, which is exempt from civil service under G.L. c. 31, § 48. Ms. Siegal's argument that she was not exempt because she is not an attorney under G.L. c. 31, § 48 requires analysis of the title Legislative Counsel included therein. G.L. c. 31, § 48 creates exemptions from civil service as noted above. The caselaw closest to the

Clerk, Weigh Clerk); Messenger Series; Executive Secretary Series (title: Executive Secretary); Legal Stenography Series; Medical Stenography Series; Clerk and Stenographer Series (titles: Clerk and Stenographer, Senior Clerk and Stenographer, Principal Clerk and Stenographer and Hearings Stenographer); Time and Construction Clerical Series; Secretary Series (titles: Secretary, Board Secretary, Committee Secretary, Commission Secretary); Administrative Assistance Series (title: Administrative Assistant); Clerk and Secretary Series (title: Principal Clerk and Secretary); and Clerk and Typist Series (titles: Clerk and Typist, Senior Clerk and Typist and Principal Clerk and Typist)

underlying issues in this is the case referenced in the section 48 case references, as noted above, City Council of Boston v. Mayor of Boston, 383 Mass. 716 (1981). The City Council case indicates that a mayor has certain inherent authority necessary for the execution of his authority. An analysis of the structure of section 48 and the plain meaning of the text are also instructive. Section 48 exempts general and specific municipal positions, sometimes using the same word to refer to different positions. It first exempts administrative assistants, secretaries, et al that are “connected with the offices of city councils, town councils, mayors, city managers, town managers and selectmen ...” Id. This reflects the Legislature’s understanding of, and intent to address such exempted positions in different forms of municipal government. It then exempts “[c]ounselors, attorneys-at-law, including attorneys designated as counsel or counsellors-at-law, city solicitors, ... town counsels” Id. This suggests that the Legislature intended to include attorneys by whatever title each city or town may use.¹⁵ Further on, section 48 exempts “Legislative counsel in cities or towns.” Id. Having previously exempted attorneys employed or engaged by a municipality, an exemption for Legislative Counsel suggests a Legislative intention to address personnel who provide legislative advice, whether or not they are attorneys. This interpretation is supported by the plain meaning of the words. The word “counsel” is defined first as “advice given especially as a result of consultation”. www.merriam-webster/dictionary/counsel.

A review of the 1974 Municlass Manual and the 1998 HRD List of Titles similarly supports the interpretation providing that a Legislative Counsel need not be an attorney.

Although the title Legislative Counsel does not appear in any of the lists referenced herein, the

¹⁵ Similar confusion may be involved in understanding the term “officer” in section 48 as it is used repeatedly in different ways. For example, section 48 refers to “legislators and officers and employees of the legislative branch” ; “officers elected by popular vote ...”; “officers, noncommissioned officers and enlisted men in the military ...”; “officers, secretaries and employees of the office of the governor and executive counsel, lieutenant governor ...”; and “officers whose appointment or election is by a city council ...”.

1974 Municlass Manual and the 1998 HRD List include the title Legal Counselor. There are no job descriptions in the 1998 HRD List. Under the 1974 Municlass Manual, that title requires a law school degree (although not admission to the bar). However, there is no allegation in this case that Ms. Siegal was providing legal counsel. The Municlass Manual also contains the title “Legal Assistant”, which does not require a law degree but the position involves legal research, maintaining an index of legislation and examining pending legislation for its applicability; it does not involve policymaking or being actively involved in implementation of an elected official’s goals and policies, which are involved here. While there is no Legislative Counsel title in the Municlass Manual nor the HRD List, in view of the plain meaning of the words and the fact that neither a Legal Counselor nor a Legal Assistant in the Municlass Manual is required to be a member of the bar, I find that a Legislative Counsel need not be an attorney and that Ms. Siegal acted as Legislative Counsel in IGR. Ms. Siegal worked with legislators and executive branch offices, as well as private organizations to promote the legislative and funding agenda of the Mayor and in support of his positions, initiatives and policies. Acting as Legislative Counsel, Ms. Siegal was exempt from civil service.

Even if Ms. Siegal was not acting as Legislative Counsel, she clearly was “connected with” the office of the Mayor and is, therefore exempt from civil service under G.L. c. 31, § 48. A preponderance of the evidence indicates, in her own writing and in the testimony of people with whom she worked for years, she was involved in policymaking, she communicated directly with the Mayor and pursued implementation of the Mayor’s goals and positions in state and federal governments, in the MMA and the U.S. Conference of Mayors. She attended meetings on behalf of the Mayor. She carried a business card holding herself out as an employee in the Mayor’s office and indicated on other documents that she worked in the Mayor’s office. She

earned an executive salary, consistent with a person working in connection with the Mayor.¹⁶ Therefore, Ms. Siegal was employed as a person connected with the Office of the Mayor, rendering her exempt from civil service pursuant to G.L. c. 31, § 48.

The decision in the instant case is consistent with the Commission's rulings in cases decided in 2015 involving termination of two (2) other city employees. In Lynch v. City of Boston, 28 MCSR 298 (2015), the Respondent abolished Mr. Lynch's employment as Director of Parks without providing him notice, a hearing under G.L. c. 31, §§ 41-44 and that he had been prejudiced thereby. In that case, the Commission found that although Mr. Lynch was hired provisionally as an "Executive Assistant (Director of Parks)", he was made a permanent civil service employee under St. 1998, Chapter 282, like Ms. Siegal. Further, the Commission found, in part, that Mr. Lynch's position was not exempt from civil service as a department head under G.L. c. 31, § 48 since there was no separate Parks Department; rather the Director of Parks job fell within the Respondent's Parks and Recreation Department.

The Commission's decision in Cascino v. City of Boston, 28 MCSR 194 (2015) is also consistent with the instant decision. The Respondent terminated Ms. Cascino's employment from the position of Director of Recycling at the Public Works Department without redress under G.L. c. 31, §§ 41-44. Like Mr. Lynch and Ms. Siegal, Ms. Cascino was hired provisionally then made permanent at the Respondent's request in St. 1998, Chapter 282. In Cascino, the Respondent averred, *inter alia*, that application of St. 1998, Chapter 282 to employees like Ms. Cascino was inappropriate because they had significant supervisory, budget and policy making authority and gave such employees unfair advantage over provisionals hired after them. The Respondent acknowledged that Ms. Cascino was not exempt as a department head under G.L. c.

¹⁶ An executive salary alone would not suffice to establish that Ms. Siegal was not a tenured permanent civil service employee but it is a factor to be considered.

31, § 48 but further asserted that her position was exempt because it was not in appropriate lists of civil service titles and she was not presently qualified for the job, which had become more complicated over time. The Commission found that nothing in G.L. c. 31, § 48 exempted employees solely because their position involved policy making. The difference in the instant case is that Ms. Siegal was involved in policy making *in connection* with the Mayor's office, as provided in section 48. As the Commission has noted many times, these cases indicate the problems associated with issuing provisional appointments in a manner that was not intended.

The Respondent has argued in these cases that they show that the civil service system relating to nonpublic safety employment is broken and in need of Legislative redress. As the Commission has found repeatedly, the vast majority of non-public safety civil service positions in the official service have been filled provisionally for more than twenty years because there have been no examinations given from which to establish eligible lists to certify names of candidates who may be considered for appointment and appointed permanently. The Commission's repeated reminders of the shortcomings of this situation notwithstanding, provisional appointments remain the way that most official service jobs are filled. As long as the statutory requirements are followed in this regard, the Commission must follow the legislative intent to permit appointing authorities to make provisional appointments. "If there is a flaw here, it is a flaw for the General Court to address. *See Kelleher v. Personnel Administrator*, 421 Mass. 382, 389 (1995)." *Green v City of Brockton*, 28 MCSR 39 (2015)(*see cases cited therein regarding provisional appointments*). The difference here is that Ms. Siegal was terminated from a statutorily civil service-exempt position and the Commission lacks jurisdiction over her appeal.

The instant case is distinguishable from the Commission's determinations in other cases. For example, in Berrios v. Holyoke, 25 MCSR 308 (2012), the appointing authority argued that Ms. Berrios was exempt from civil service because she was a Department head at the time of her termination. However, in that case, Ms. Berrios' promotion to the position of Department head was never approved by the city council, as required by local ordinance, and, therefore, she was not exempt from civil service. Ms. Berrios had also argued that G.L. c. 30, § 46D explicitly provides that a tenured employee retains their civil service status when they are promoted to a management position. However, by its terms and definitions, G.L. c. 30, § 46D applies to state employees, not municipal employees and the statute was not applicable to Ms. Berrios and is not applicable to Ms. Siegal.

In McDowell v. Springfield, 23 MCSR 124 (2010), 23 MCSR 243 (2010), 24 MCSR 153 (2011), the Commission found that the appellant had permanent status in a civil service position and could appeal his suspension to the Commission although he had been provisionally promoted but that his employment could be terminated when he subsequently pleaded guilty to filing false tax returns. The Commission's decision was appealed. The Supreme Judicial Court confirmed the appellant's original right to appeal the suspension but reversed the decision otherwise and remanded the case to the Commission. City of Springfield v. Civil Service Commission and another, 469 Mass. 370 (2014)(City did not have authority to suspend McDowell without pay upon his indictment for filing false tax returns and McDowell was not properly suspended during a specific time period). See McDowell v. Springfield, Order on Remand (February 19, 2015), McDowell v. Springfield, Docket No. D-05-148 (January 7, 2016). There is no indication that McDowell was promoted to a position that was exempt from civil service as in the instant case.

In Ralph v. Webster, 19 MCSR 10 (2006), the appellant was a tenured police Sergeant who applied for a new Deputy Chief of Police position, which the Town sought to remove from civil service law by petitioning the Legislature. The Ralph case is limited to its particular fact pattern, which is distinguishable from the instant case. Ralph was appointed Acting Temporary Deputy Chief and informed that before being sworn in he should request approval for a leave of absence from civil service under G.L. c. 31, § 37 since his new position would not be within civil service. Ralph sought and obtained a one-year leave from HRD. Whether or not the leave of absence was appropriate, the leave expired after Ralph accepted the permanent Deputy Chief position. Subsequently, Ralph was demoted from his non-civil service position. The Commission found that Ralph lacked standing to appeal to the Commission since he was no longer in a civil service position.¹⁷ Like Ralph, Ms. Siegal accepted a position not in civil service.

As noted above, the Supreme Judicial Court wrote in City Council of Boston v. Mayor of Boston, 383 Mass. 716 (1981), that grants of authority and responsibility to a mayor “necessarily imply grants of implicit power to carry out the authority expressly conferred”, acknowledging, to that end, that Boston’s charter exempted certain of the mayor’s staff from civil service. The ruling here does not undermine basic merit principles; it recognizes the civil service exemptions established in G.L. c. 31, § 48.

¹⁷ Because of the unique circumstances in the Ralph case, the Commission also concluded,

“In light of the fact that neither party in the matter was cognizant of, or compliant with, the requirements to reinstate the Appellant to the Civil Service position of Patrolman, the Commission shall not invalidate the reinstatement immediately. In the interest of fairness and justice to both parties, the Commission instead orders the Appointing Authority seek (sic) approval from the Personnel Administrator for said reinstatement within sixty (60) days of the date of this decision.” Id.

Conclusion

For all of the above-stated reasons, the Commission lacks jurisdiction over the Appellant's appeal under Docket No. D1-14-109 because she is exempt from civil service and, therefore, the appeal is *denied*.

/s/ Cynthia A. Ittleman

Cynthia A. Ittleman
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan Commissioners) on June 9, 2016.

Either party may file a motion for reconsideration within ten days of the receipt of the Commission's decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(1), 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. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Joseph G. Donnellan, Esq. (for Appellant)
Kay H. Hodge, Esq. (for Respondent)
John M. Simon, Esq. (for Respondent)