

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

ALAN M. WYNN,
Appellant

v.

C-16-158

**EXECUTIVE OFFICE OF HEALTH AND
HUMAN SERVICES,**
Respondent

Appearance for Appellant:

Alan M. Wynn
Pro se

Appearance for Respondent:

Sheila Anderson
Executive Office of Health and
Human Services
600 Washington Street
7th Floor
Boston, MA 02114

Commissioner:

Cynthia A. Ittleman

DECISION

On September 15, 2016, the Appellant, Alan M. Wynn (Mr. Wynn or Appellant), pursuant to G.L. c. 30, § 49, filed a timely appeal with the Civil Service Commission (Commission), contesting the decision of the state's Executive Office of Health and Human Services (EOHHS) to deny his request for reclassification from the position of EDP Systems Analyst III to the position of EDP Systems Analyst IV. A pre-hearing was held on October 11, 2016 at the offices of the Commission. A full hearing was held at the same location on

November 15, 2016 and December 6, 2016.¹ Witnesses, except the Appellant, were sequestered. The hearing was digitally recorded and both parties were provided with a CD of the hearing². The parties opted not to submit post-hearing briefs. The appeal is denied because the Appellant has not proved that he performs the tasks of an EDP IV a majority of the time.

FINDINGS OF FACT:

Twenty-nine (29) exhibits were entered into evidence at the hearing: Joint Exhibits (Jt.Exs.) 1 – 4; Appellant’s Exhibits (A.Exs.) 1 – 13; and Respondent’s Exhibits (R.Exs.) 1 - 12. The parties also produced documents ordered at the first day of hearing marked as Appellant’s Email (A.Email), November 28, 2016; and Respondent’s Email (R.Email), December 1, 2016. Based on these exhibits, the testimony of the following witnesses:

Called by the Respondent:

- Susan Robak, Deputy Director Field Operations, Secretariat IT Operations, Executive Office of Health and Human Services (EOHHS)
- Mike Fitzpatrick, Regional Operations Manager, Northeast Region (EOHHS)
- Amy Lynch, Director of Recruitment Staffing and Policy (EOHHS)(formerly Manager, Employment and Staffing Unit, Children, Youth and Families (EOHHS)

Called by the Appellant:

- Alan M. Wynn, Appellant

and taking administrative notice of all matters filed in the case and pertinent statutes, case law, regulations, policies, and reasonable inferences from the evidence; a preponderance of credible evidence establishes the following facts:

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 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. In such cases, this CD should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

Background

1. The Appellant has worked for the state as an EDP Systems Analyst for more than two (2) decades. In 2012, the Appellant and a number of other EDP IIs at EOHHS were reclassified to EDP IIIs with the functional title of Information Technology Site Manager (ITSM) in view of the increased consolidation of IT agencies. The Appellant works in the EOHHS Northeast Region (NE Region). (Testimony of Appellant and Robak)

EOHHS IT Organization

2. Susan Robak is the IT Deputy Director for Field Operations at EOHHS, overseeing six (6) regional managers, including the regional manager for the NE Region. Ms. Robak worked with the Appellant directly and indirectly many years prior to his EDP IV reclassification request but has had very limited direct contact with the Appellant in recent years. When, as here, Ms. Robak is informed by EOHHS HR that an IT employee has requested reclassification, she reviews the employee's Interview Guide, contacts the employee's regional manager to verify the work the employee is performing and she then completes an audit decision form with her comments and sends it to EOHHS HR. (R.Ex. 6; Testimony of Robak)
3. Michael Fitzpatrick is the NE Regional Manager; he has worked directly with the Appellant and is in contact with him two (2) or three (3) times per week. Mr. Fitzpatrick supervises two (2) people directly: Mark Grant, a supervisor and Technical Pay Law (TPL) employee; and Mr. Fitts, a "backfill Supervisor"³. (Testimony of Fitzpatrick) A significant difference between and EDP III and EDP IV is that an EDP IV builds a server, loads software, and defines the role of the server, although they may only build and maintain servers less than half of their time. The Appellant's name was not on a group

³ The organizational chart for this region indicates that the position is officially vacant. (R.Ex. 6)

email to server builders. (Testimony of Fitzpatrick and Robak) To become an EDP IV requires continuing education. EOHHS IT offered related training but the Appellant was out of work several months due to a work injury when the training was offered.

However, since a server can be a personal computer, people can learn at home; they can also volunteer with a more experienced person at work. Mr. Fitzpatrick observed Mr. A and Mr. B pursuing such skill sets but not the Appellant. (R.Ex. 6; Testimony of Fitzpatrick)

4. Mr. Grant supervises the Appellant and several other EDP IIIs and one (1) TPL staff person. Similarly, Mr. Fitts supervises six (6) people, two (2) of whom (Mr. A and Mr. B) were reclassified to the position of EDP IV in 2015, at or about the time that the Appellant requested reclassification.⁴ At the time that the Appellant requested reclassification to EDP IV, Mr. Grant was assisted by Mr. Fitzpatrick in supervising the Appellant and other employees. Each of these managers has had many years of experience. (Testimony of Robak, Fitzpatrick)⁵

Processing of Appellant's Reclassification Request

5. The Appellant requested reclassification on or about May 20, 2015. (Jt.Exs. 1 and 3)
6. On May 22, 2015, Ms. Joan Bishop Fallon, then Employment and Staffing Manager, EOHHS Children, Youth and Families Office of Human Resources, sent an email message to Ms. Robak, with a copy to the Appellant, Mr. Fitzpatrick and others. In the email, Ms. Bishop Fallon asked Ms. Robak to give the Appellant an Interview Guide to complete, to review the Appellant's completed Interview Guide, to sign a Classification

⁴ At least one (1) other EDP III in the NE Region similarly requested reclassification but his request was denied and he appealed to the Commission. *Mesquita v EOHHS*, 30 MCSR 385 (2017). The appeal was denied.

⁵ There is no date on the organization chart containing this information (R.Ex. 6) produced by the Respondent. However, it appears to be undisputed that Mr. Grant supervises the Appellant, Mr. Fitzpatrick supervises Mr. Grant, and Ms. Robak supervises Mr. Fitzpatrick, as indicated in the chart.

Audit Decision form and return the Interview Guide and Audit Decision to her. In addition, Ms. Bishop Fallon asked Ms. Robak to ask the Appellant for a current EPRS, a Form 30, and an updated organization chart. (A.Email, November 28, 2016; R.Exs. 1, 3, 4, 5, 6, 7, 9; Jt.Exs. 1 – 4)

7. Shortly thereafter, the Appellant completed the Interview Guide.⁶ (Jt.Ex. 1)
8. Ms. Robak subsequently contacted Mr. Fitzpatrick to confirm with him what functions the Appellant was performing. Mr. Fitzpatrick confirmed that the Appellant was performing limited server work but that the Appellant did not build servers or migrate data for servers as EDP IVS do. (Testimony of Fitzpatrick, Robak and Lynch)
9. On June 4, 2015, Ms. Robak filled out the Classification Audit form for the Appellant's reclassification request. In it, Ms. Robak wrote, "[t]here have been no changes to [Appellant's] level of responsibilities since his last reclass. He is performing (sic) the tasks of an EDP System Analyst III." (R.Ex. 1)
10. After following the Respondent's process for considering reclassification requests and reviewing the Appellant's Interview Guide, his Form 30, and EPRS, and considering the comments of Ms. Robak and Mr. Fitzpatrick, Ms. Amy Lynch, then the Employment and Staffing Unit Manager, sent a memo to the Appellant on September 29, 2015 preliminarily denying his reclassification on September 29, 2015. (Jt.Ex. 2)
11. The Appellant submitted a rebuttal to the Respondent in response to the Respondent's preliminary denial of his reclassification request on October 5, 2015. In the rebuttal, the Appellant asserted, *inter alia*, that he handles fourteen (14) offices in the NE Region and that he manages every such site's specific projects, providing network infrastructure and server support. (A.Email), November 28, 2016)

⁶ The Appellant signed but did not date the completed Interview Guide.

12. By letter dated November 12, 2015, Ms. Lynch informed the Appellant that his request was denied. (Jt.Ex. 3)
13. The Appellant appealed the Respondent’s decision to the state’s Human Resources Division (HRD) on December 14, 2015. (Jt.Ex. 4)
14. HRD denied the Appellant’s appeal on August 25, 2016. (Jt.Ex. 4)
15. The Appellant filed the instant appeal. (Administrative Notice)

Appellant’s Interview Guide

16. The Appellant completed the Interview Guide at or around May 22, 2015. (Jt.Ex. 1)
17. The Interview Guide asks, if there have been any “significant job changes since your appointment? If so, indicate the dates the changes took place and briefly describe the nature of the changes.” (Jt.Ex. 1) The Appellant responded,

There have been very significant changes since my appointment. Server access and management responsibility have gone up dramatically I (sic) have gone from managing one agency to six agencies in the past seven years. With the merger of the six agencies, it has introduce (sic) multiple different operating systems, applications, mail servers, (such as Lotus Notes, MS Outlook) and networks (DCL, comcast (sic) routers, VPN) requiring additional training, rapid self learning in order to effectively support the new customer base. Open new offices without any assistance requiring me to bring up connect (sic) to data communications network; connect personal computers, peripheral devices and other network equipment.
(Id.)(emphasis added)

18. Under “Specific Duties” in the Interview Guide, the Appellant was asked to describe what duties he performs (“listing most important first”) and indicating what percent of his time is spent on each duty. The Appellant answered,

Manage Email support/accounts/troubleshoot	15%
Troubleshoot errors with application	15%
Manage re-image, joint to EHS domain	15%
Manage client viruses remediation at sites I manage	10%
<u>Manage/Add/Editing/Deletions of users on the servers, and manage the transfer of users from one office server to new office Server.</u>	10 %

Manage Active Directory/Rights editing or adding	8%
Manage new hardware and software based on TR Requests	6%
Install printer's new devices, deal with outside Vendors	5%
Manager VOIP [Voice Over Internet Protocol] configuration, troubleshooting	5%
Manage deployment of new equipment throughout my offices	5%
Manage physical inventory for 8 sites and super center	5%
User support Teaching, or just helping in general	5%
Move PC's (sic), VOIP phones, desktops printers (sic)	4%
<u>VPN into Servers after hours, to bring server down after updates have been done, re-boot server back online for next business day.</u>	2% ⁷
(Jt.Ex. 1)(sic)(emphasis added)	

19. On the Interview Guide, the Appellant indicated that he does not supervise anyone.

(Jt.Ex. 1)

20. According to his responses in the Interview Guide, the Appellant operates or repairs, the following equipment:

Manage local and remote Servers, Non-Magnet sites
 Manage VOIP Phones not excluding Analog, Droids, and iPhone
 Manage Desktop, workstations, laptops, printers
 Manage Backup power units
 Manage Printer, Faxes, and Multifunction Units
 Manage Patch⁸ Panels, Switches, Routers, Modems
 Manage handheld devices such as DDS portable email devices
 Manage Cabling projects and repairs
 Responsible for the knowledge of our standard OS [operating system] plus a variety of software used by all agencies, and Citrix installs Cabling
 Knowledge of a variety of software used by all agencies
 Manage EBT Machine and processes
 (Jt.Ex. 1)(emphasis added)

21. Asked who assigns, reviews and approves his work, the Appellant wrote,

Tickets are assigned on call and office covering basis via the helpdesk. Pulled by me from the queue, or immediate supervisor and Regional Manager assign tickets based on the above not excluding coverage to backup unavailable workers. Large

⁷ The Appellant's percentages of time add up to 110% when the total should be 100%.

⁸ A computer patch is defined as, "a minor correction or modification in a computer program". <https://www.merriam-webster.com/dictionary/patch> (January 22, 2019). I note that on December 21, 2015, Mr. Fitzpatrick emailed the Appellant and another EDP III stating that they had not patched and rebooted certain servers for the end of FY2015 and certain months thereafter even though there were new patches monthly. (R.Ex. 3)

percentage of the work also coming from workers that I come in contact daily throughout the agencies by email and not excluding direct calls, based on need. (Jt.Ex. 1)

22. Asked if his job requires a certificate, license, graduate degree or other special requirement, the Appellant wrote,

Certificate, Novell, two to four years of full time professional experience in electronic data processing of which at least two years have been in work in which major duties included computer systems analysis. (Jt.Ex. 1)

23. At the Commission hearing, the Appellant added, *inter alia*, the following examples of his server assignments⁹:

wiped servers clean so that they can be disposed of (A.Ex. 7);
checked for power to servers and other equipment (A.Ex. 7);
“patched” and reboots servers (id.);
transferred certain PC drives back to a server (id.)
cooled off a server room when the air conditioning was not working (id.);
replaced power supplies on a server that was shutting down frequently (A.Ex. 9);
determined if there was enough space in the server room and power for an additional server if
 someone else was to build it (id.);
backed up servers (A.Ex. 4); and
worked overtime when approved (A.Ex. 11).

Appellant’s EPRS

24. The Appellant’s Employee Performance Review Form (EPRS) for fiscal year 2015¹⁰ lists the Appellant’s four (4) duties as follows:

Duty 1: Customer Satisfaction and Support:

- Respond and resolve tickets and incidents in accordance with EOHHS IT policies and procedures as they relate to customer support.

⁹These are some of the examples provided by the Appellant in A.Exs. 6 through 11 relating to events that occurred in or about FY15, when he requested reclassification. The Appellant included in those exhibits documents pertaining to the late summer and early fall of 2016, which are beyond FY15. In addition, certain pages of A.Exs. 6 through 11 appear to be incomplete email messages. For these reasons, the untimely documents and incomplete documents in A.Exs. 6 through 11 are given no weight.

¹⁰In making its preliminary decision regarding the Appellant’s reclassification request, the Respondent incorrectly relied upon the Appellant’s 2012 EPRS. (Testimony of Lynch) In connection with his rebuttal to the preliminary denial, the Appellant submitted his 2015 EPRS to the Respondent. (A.Ex. 13; A.Email, November 28, 2016)

- Responsible for customer/User satisfaction as it relates to IT services.
 - Performs all duties in a respectful and professional manner.
 - Support of personnel as it relates to the use of equipment/software in the EOHHS enterprise environment as needed.
- (A.Ex. 13)

For this duty, the Appellant’s rating was “Meets” and Michael Grant, the Appellant’s supervisor, added, “Alan works hard to meet all customer needs across the multiple agencies he supports. I consistently hear positive feedback from all that Alan comes in contact with.” (Id.)

Duty 2: Technical and Team responsibilities:

- Assess, debug and resolve technical problems associated with desktops and system peripherals.
 - Assists with troubleshooting and resolving network issues as required.
 - Assist with the monitoring and maintaining the health and integrity of the network.
 - Assist with local backup and restore process as required.
 - Manage the upgrade of hardware & software when necessary to insure that all services are provided in a secure and timely fashion.
 - Assist Telecom with movement of IP phones as required.
 - Implementation of EOHHS IT enterprise images for PCs (Desktop/Laptop) according to EOHHS procedures and policy to insure a consistent environment.
 - Install and move assets as required according to EOHHS policies and procedures.
 - Assist with site specific projects as related to network infrastructure & server support.
 - Support, trouble shoot and configure remote access to assist network users with connectivity to EOHHS network from non-magnet connections.
- (Id.)(emphasis added)

For this duty, the Appellant’s rating was “Meets” and Mr. Grant added, “Alan is a strong desktop support staff member and is consistent with addressing all that is needed by those he supports in a timely manner.” (Id.)

Duty 3: Project roles and Coordination:

- Participate in meetings, special projects and other requests as required to maximize the efficient use of IT resources.
- Coordinate site visits with service providers.

- Work collaboratively with internal and external groups in a team environment to improve overall customer service and support.
- Utilize any and all resources available through EOHHS and other sources for assistance with problem resolution.
- Assist with site specific projects as related to network infrastructure and server support.
(Id.)(emphasis added)

For this duty, the Appellant’s rating was “Exceeds” and Mr. Grant added, “Alan coordinates all IT related activities at his assigned sites and has been successful in seeing project through completion.” (Id.)(emphasis added)

Duty 4: Leadership Responsibilities:

- Manage site specific projects.
(Id.)

For this duty, the Appellant’s rating was “Meets” and Mr. Grant wrote, “Alan attends has (sic) done a good job coordinating projects which have at times have (sic) involved internal staff and vendors.” (Id.)

Duty 5: Administrative Tasks:

- Performs all business administrative duties in a timely and accurate fashion.
- Maintain inventories of all EOHHS IT assets using the EOHHS inventory collection process to secure Commonwealth assets.
- Clearly communicate and/or escalate to their supervisor any IT operations issues or disruptions (planned or unplanned) to minimize user impact.
- Perform all duties as required and directed.
(Id.)

For this duty, the Appellant’s rating was “Meets” and Mr. Grant wrote, “Alan meets all administrative duties in a timely manner.” (Id.)

EDP Specification

25. The EDP Specification (Spec) approved by the state’s Human Resources Division (HRD) is dated July 1, 1987 and is technologically out of date in many regards. (R.Ex. 5; Testimony of Robak) However, the Spec indicates that in addition to performing the

work of an EDP III, EDP IVs would also be responsible for overseeing a number of activities:

1. Prepare EDP unit budget requests and supporting documentation for agency approval and inclusion in final budget.
2. Schedule duty rosters and ensure that all duty stations are properly staffed.
3. Act as consultant to data processing personnel of other agencies or departments, determine suitability of agency programs or systems to meet specific needs and give general advice and direction to agency staff.
4. Act as consultant to users on such matters as computer-augmented or business-oriented instructions, validity of programs, assessing user needs, etc.
5. Approve program/systems for computer programming
6. Conduct workshops and/or classroom training sessions for users and agency personnel and students.
7. Determine staff needs and proper allocation of staff to work functions.
8. Interview, evaluate and recommend applicants for employment.
9. Approve rescheduling of interrupted or delayed production runs.
10. Act as liaison between users, operations management, computer center and agency personnel to establish or adjust production priorities.
11. Schedule daily production runs based on program priorities, input/output requirements, sequence of related jobs, etc.
(R.Ex. 5)

26. The Spec provides that EDP IIIs supervise 1 to 5 employees and EDP IVs supervise 1 to 10 employees plus, EDP IVs indirectly supervise others. Both EDP IIIs and EDP IVs receive supervision from employees of higher grade regarding policy, they assign work and review performance through conferences and reports. (R.Ex. 5)

27. The minimum entrance requirements (MERS) for an EDP III are four (4) years of fulltime or equivalent part time, professional experience in electronic data processing of which at least two (2) years must have been in computer systems analysis or equivalent combination of the required experience and the listed permissible substitutions. MERS for an EDP IV are five (5) years of fulltime or equivalent part time professional experience of which at least three (3) years have been in computer systems analysis or equivalent combination of the required experience and permissible substitutions.

(R.Ex. 5)

28. Because the Spec is outdated, in or about 2010 the Respondent developed more current Form 30s (job descriptions), *inter alia*, for EDP IIIs, EDP IVs and TPLs.¹¹ (Testimony of Robak, Fitzpatrick and Lynch; A.Ex. 5)

Appellant's EDP III Form 30

29. In preparing his request for reclassification in 2015, the Appellant requested his EDP III Form 30 from the Respondent but he received different responses to his requests. On one hand, he was informed that there is a specific Form 30 for his position but the Respondent did not or could not produce it; instead, the Respondent produced for the Appellant an EDP III Form 30 which apparently applies to a number of EDP IIIs. The Appellant had also requested the Form 30 for an EDP IV but he did not receive one until after he had submitted his reclassification request. (Testimony of Appellant; R.Ex. 4; R.Email, December 1, 2016)

30. The Form 30 for EDP IIIs that the Appellant received lists the following duties and responsibilities, in part¹²:

1. Responsible for customer/User satisfaction as it relates to IT services and support.
2. Acts as support technician for sites assigned.
3. Performs tasks associated with managing, prioritizing, and resolving Help Desk tickets.
4. Maintains the IT inventory database.
5. Provides support of personnel as it relates to the use of equipment and software[.]
6. Assess, debug and resolve technical problems associated with desktops and system peripherals. ...
7. Assists with troubleshooting and resolving Network issues as required.
8. Assist with the Monitoring and Maintaining the health and integrity of the network[.]
9. Assist with local backup and restore process as required[.]
10. After hours support as authorized and required ...

¹¹ Ms. Robak indicated that the Spec is so dated, for example, that it references mainframe computers. (Testimony of Robak)

¹² The tasks are not numbered in the Form 30 but they are numbered here for ease of reference.

11. Manage the upgrade of hardware & software ... This includes but is not limited to new Anti-Virus, Operating System patches, or other mandated software upgrade as directed ...
12. Work collaboratively with internal and external groups in a team environment ...
13. Install and move assets as required ...
14. Complete all activities within EOHHS security policies and practices.
15. Act as the contact person for office wiring/cable installations ...
16. Required to travel to various sites ...
17. Manage site specific projects as related to desktops.
18. Assist with site specific projects as related to network infrastructure & server support[.] ...
19. Support, trouble shoot and configure remote access to assist network users with connectivity to EOHHS network from non-magnet connections. ...
(R.Ex. 4)(emphasis added)

According to this Form 30, EDP IIIs are supervised by Mr. Grant. EDP IIIs do not supervise others. (Id.)

The minimum entrance requirements (MERs) for EDP IIIs are: at least 2 years of full-time or equivalent part time professional experience in the IT field or any equivalent combination of the required education/experience listed permissible substitutions, even though the Spec requires four (4) years of such experience for an EDP III. (Id.)

EDP IV Form 30

31. The Form 30 for EDP IVs lists the following duties and responsibilities, in part:
 1. Responsible for Customer/User satisfaction as it relates to IT services and support.
 2. Acts as lead Support technician for site/sites as assigned
 3. Performs tasks associated with managing, prioritizing, and resolving Help Desk tickets.
 4. Maintains the IT inventory database as applicable
 5. Performs training and mentoring of IT staff and support of users as it relates to the use of equipment/software/applications in the EOHHS enterprise environment as needed
 6. Assess, debug and resolve technical problems associated with desktops/servers and system peripherals.
 7. Performs all business administrative duties in a timely and accurate fashion.
 8. Perform Project support as coordinator and lead as needed
 9. Coordinate site visits with service providers.
 10. Performs troubleshooting and resolves in Network and Infrastructure issues as required.

11. Performs backup and restore process as required
 12. Monitors and Maintains the health and integrity of the network
 13. Provide mentoring and subject matter expertise within the IT department to insure professional growth within the department and IT community
 14. Maintain documentation for server rooms/infrastructure & disaster recovery
 15. Ensure compliance with system security and network policies
 16. After hours support as authorized and required
 17. Maintain an organized and safe work environment
 18. Participate in meetings as required. ...
 19. Manage the upgrade of hardware & software when necessary to insure that all services are provided in a secure and timely fashion. This includes but is not limited to new Anti-Virus, Operating System patches, or other mandated software upgrades as directed by EOHHS Standards and practices.
 20. Clearly communicate and/or escalate to their supervisor any IT operations issues or disruptions (planned or unplanned) to minimize user impact. ...
 21. Work collaboratively with internal and external groups ... to improve overall customer service ...
 22. Implementation of EOHHS IT enterprise images for Desktops/Laptops ... to insure a consistent environment.
 23. Responsible for timely response and support during scheduled and authorized non-business hours to insure continuity of services ...
 24. Install and move assets ...
 25. Assist/lead with meetings special projects (sic) and other requests ...
 26. Complete all activities within EOHHS security policies and practices to insure the safety and privacy of data, its clients and its resources.
 27. Acts as the contact person for office wiring/cable installations and performs related duties ...
 28. Required to travel to various sites as needed ...
 29. Manage site specific projects as related to network infrastructure & server support
 30. Install, configure and support state issued mobile devices
 31. Troubleshooting and resolving Network issues ...
 32. Configure and maintain backup and restore process ...
 33. Support, trouble shoot and configure remote access to assist network users ...
 34. Participate in the development of the documentation of servers, infrastructure and practices by providing written and/or verbal communications to effectively maintain a resource of standard practices.
 35. Provide consultative IT services to IT management and site teams as needed
 36. Mentor other IT professionals to insure their professional growth and skill set improvement ...
 37. Build and restore servers (sic) as required
 38. Maintain Disaster recovery package for server rooms ...
 39. Review server event logs on a daily basis to ensure optimal performance and identify potential issues
- (R.Ex. 4)(emphasis added)

There is no indication in the record that the Appellant performs EDP IV tasks number 2,

5, 8 (as to leading), 13, 14, 15, 22, 23, 25 (as to leading), 26, 32, 34, 36, 37, 38 and 39.

(Administrative Notice; R.Ex. 10)

32. This Form 30 for EDP IVs indicates that EDP IVs are supervised by an IT Manager and that they do not supervise others. (R.Ex. 4)

33. The minimum entrance requirements (MERs) for EDP IVs are: at least four (4) years of full-time or equivalent part time professional experience in the IT field or any equivalent combination of the required experience listed permissible substitutions, even though the Spec requires at least five years of such experience for EDP IVs. (Id.)

Applicable Law

Pursuant to G.L. c. 30 § 49, the Civil Service Commission is charged with hearing the appeal of an employee aggrieved by a classification decision of a personnel administrator regarding “any provision of the classification affecting his office or position.” Id. “The determining factor of a reclassification is the distribution of time that an individual spends performing the function of a job classification.” Roscoe v. Department of Environmental Protection, 15 MCSR 47 (2002). It is well established that, in order to justify a reclassification, an employee must establish that he or she is performing duties encompassed within the higher level position the majority of the time. *See, e.g.* Pellegrino v. Department of State Police, 18 MCSR 261 (2005); Morawski v. Department of Revenue, 14 MCSR 188 (2001); Madison v. Department of Public Health, 12 MCSR 49 (1999); Kennedy v. Holyoke Community College, 11 MCSR 302 (1998); and Mesquita v. EOHHS, 30 MCSR 385 (2017).

Analysis

The Appellant has not established by a preponderance of the evidence that he performs the functions of an EDP III 51% (or more) of his time. The Appellant has devoted more than

two (2) decades to his job as an EDP analyst. In 2012, in recognition of the work he was then doing, he was reclassified from EDP II to EDP III. The Appellant here seeks reclassification to EDP IV. The Appellant's EDP III Form 30, Interview Guide, EPRS and the other evidence in the record here indicate that the work he performs is that of an EDP III.

The Appellant he asserts that he performs certain functions on servers. Exhibits in the record and credible witnesses for the Respondent testified that a key difference between the server work that the Appellant performs as an EDP III and the work of an EDP IV is that the EDP IV builds servers "from scratch" (without a prepared script written by someone else and without assistance) and/or migrates server data and the Appellant does not. The Appellant offered evidence of his work in connection with servers but they do not involve building servers and/or migrating server data. For example, he offered documents indicating that he patches and reboots servers, and he removes information from the server for employees who have left EOHHS and adds information for new employees. This does not constitute building servers or migrating server data. Further, in his Interview Guide the Appellant wrote that he has two (2) to four (4) years of the pertinent full time professional experience but the Spec for EDP IV MERs require a minimum of five (5) years of such experience.

Even if the Appellant was building servers, he has not established by a preponderance of the evidence that he does so 51% of the time, nor has he established that he performs other EDP IV Form 30 tasks 51% of his time, as detailed above. The Appellant submitted a different EDP IV Form 30¹³, placing check-marks next to functions that he asserts he performs and that, therefore, he should be reclassified. However, he did not indicate what percent of his time is spent performing those functions. In addition, while there is some overlap in the Form 30s for EDP III and EDP IV, many of the functions for an EDP III indicate that the function is to "assist"

¹³ It was not established that the EDP IV Form 30 that he produced is the correct Form 30 for that position.

therein, whereas the EDP IV functions indicate that the EDP IV is the “lead” for those functions. Therefore, the Appellant’s reclassification is unwarranted.

The Appellant asserts that he should be reclassified because Mr. A and Mr. B, whom he asserts performed the same work that he performs were reclassified. To this end, the Appellant offered exhibits showing that, like him, Mr. A and Mr. B were responding to help desk inquiries. While Mr. A and Mr. B appear to have performed at least some of the same functions performed as the Appellant, EOHHS managers indicated that Mr. A and Mr. B were also doing other higher level work and they were doing it without assistance, unlike the Appellant. The Appellant also asserts that it was improper for an indirect supervisor (Ms. Robak) to provide written comments on his reclassification request and recommend against it whereas direct supervisors for other EDP IIIs were asked for written comments and they recommended reclassification. However, Ms. Robak testified credibly that she consulted the Appellant’s supervisor to verify the work the Appellant was performing, in addition to reviewing the Appellant’s Interview Guide. Therefore, it appears that there was no impropriety in this regard. In addition, I detected no bias on the part of the personnel involved with the Appellant’s reclassification request.

In the end, it appears that the Appellant’s chief reason for seeking reclassification is the quantity of work to which he has been assigned. As the Appellant indicated in his Interview Guide, the quantity of agencies for which he provides IT services has grown from one (1) agency to six (6), with a concomitant increase in the number of EOHHS employees for whom he provides IT services. His work in these regards is admirable and it is crucial to the everyday functioning of EOHHS. However, an increase in the quantity of tasks assigned to a state employee does not merit reclassification. Rather, it is the changes in the tasks the employee may

be performing that are assessed to determine if they constitute the work of the higher title and whether they perform the work of the higher title 51% of the time.

Conclusion

Accordingly, for the above stated reasons, Mr. Wynn's appeal, filed under Docket No. C-16-158, is hereby *denied*.

Civil Service Commission

/s/Cynthia A. Ittleman
Cynthia A. Ittleman, Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on February 14, 2019.

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

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

Alan M. Wynn (Appellant)
Sheila Anderson (for Respondent)
John Marra, Esq. (for HRD)