

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

MARGARET A. EMANUELLO,  
Appellant

v.

C-05-386

UNIVERSITY OF MASSACHUSETTS  
DARTMOUTH,  
Respondent

Appellant's Representative:

Michael J. Maccaro, Atty.  
AFSCME Council 93  
8 Beacon Street, 3<sup>rd</sup> Floor  
Boston, MA 02108

Respondent's Representative:

James B. Cox, Atty.  
Rubin and Rudman LLP  
50 Rows Wharf  
Boston, MA 02110

Commissioner:

Daniel M. Henderson

**DECISION**

Pursuant to the provisions of G.L. c. 30, § 49, the Appellant, Margaret Emanuello (hereafter "Appellant"), is appealing the September 20, 2005 decision of the Human Resources Division (hereafter "HRD") denying her request for reclassification from the position of Clerk IV to the position of Administrative Secretary I. The Appellant is employed by the University of Massachusetts at Dartmouth (hereafter "University" or "Respondent"). The appeal was timely filed and a hearing was held on October 2, 2007 at the offices of the Civil Service Commission (hereafter "Commission"). One tape was made of the hearing. Proposed decisions were submitted by the parties thereafter.

### **FINDINGS OF FACT:**

Based on the documents submitted into evidence, two (2) stipulations (Joint Exhibits 1 – 12) and the testimony of the Appellant, Classification and Compensation Analyst Joseph Walkden, and the Chair of the Department of Civil and Environmental Engineering John Finnie, I make the following findings of fact:

1. The Appellant has a Civil Service seniority date of August 6, 1995. (Exhibit 2).
2. The Appellant has, at all times pertinent to this matter, been employed by the University of Massachusetts Dartmouth (hereafter “Respondent”). She currently holds the position of Clerk IV to which she was promoted in December, 1997. She transferred to the Department of Civil and Environmental Engineering as a Clerk IV in February, 2003. (Exhibit 1, Testimony of Appellant).
3. In 2004, the Department of Civil and Environmental Engineering expanded to include the addition of a Master of Science Program. (Testimony of Appellant and Finnie).
4. The addition of the Master of Science Program, in 2004 greatly increased the duties and responsibilities that Appellant performed on a daily basis. (Testimony of Appellant).
5. Some of the new duties and responsibilities performed by the Appellant related to the supervision and direction required for the new graduate students. (Testimony of Appellant).
6. The Appellant further testified that the change within her Department caused her to serve as an assistant to the Chairperson of the Department of Civil and Environmental Engineering. (Exhibit 6, Testimony of Appellant and Finnie)

7. Following the change within her Department, her job duties more accurately reflected those of an Administrative Secretary I or an Administrative Assistant I. Chairman of the Department of Civil and Environmental Engineering, John Finnie testified in favor of the Appellant's reclassification to either the Administrative Secretary I or an Administrative Assistant I position. He reviewed the specifications for both these positions and felt they more closely fit the duties and responsibilities performed by the Appellant. He worked with the Appellant on a daily basis. He felt especially that the "Grant accounting" performed by the Appellant was very important, requiring much time and expertise with the appropriate software. Timeliness and accuracy are mandatory for grant accounting while failing in either category could cause the loss of grant money. (Exhibit 6, Testimony of Appellant and Finnie)
8. Joseph Walkden, Classification and Compensation Analyst for the Respondent, did evaluate the Appellant for reclassification to both an Administrative Secretary I or to an Administrative Assistant I position, as both positions are in the same pay grade. (Testimony of Walkden)
9. On or about January 14, 2005, the Appellant filed a reclassification appeal with the Respondent. (Exhibit 1).
10. The Respondent denied the Appellant's reclassification request, on or about July 20, 2005. Among the reasons the Respondent provided for the denial of the Appellant's reclassification request to an Administrative Secretary was that she did not perform work for an agency executive or manager, but only a department manager. The denial also stated that the performed duties and responsibilities

claimed by the Appellant in her “Form 30” were duties consistent with the duties described in HRD’s Clerk series specifications. Walkden was not aware of a definition of an “agency executive or manager” but he felt that it was not a department head or chairperson (Exhibit 1 and 2, testimony of Walkden).

11. Even though the Appellant’s reclassification request was for the position Administrative Secretary I, the Respondent’s denial of the Appellant’s appeal also denied the Appellant for a reclassification to the position of Administrative Assistant I. (Exhibit 2 and testimony of Walkden).
12. Walkden testified that there were approximately 36 positions that provided support to academic departments at UMass-Dartmouth. Those 36 positions are allocated as follows: 4-5 as Administrative Assistant I’s, 2-3 as Clerk III’s and the remainder and bulk being Clerk IV’s. A rarely used title on campus is Administrative Secretary. There are 3-4 Administrative Secretary positions on campus, for support of high level offices, (2 Deans, a Provost and Vice Chancellor). Walkden stated that the Electrical and Computer Engineering Department, with 18 faculty and an unknown number of graduate students, did have an Administrative Assistant I position. When questioned as to why a reclassification to Clerk V or higher clerk position was not considered, Walkden answered that the Clerk V title was not used on campus, offering no further explanation.(Testimony of Walkden)
13. Walkden is a competent classification and compensation analyst, having been employed in this position for the University for 7 years. He described himself as “a generalist”. He testified generally regarding the Appellant’s duties and responsibilities as a Clerk IV. He felt that although the Appellant participated in

and supported many duties within her department, she did not have the “critical responsibility” that an Administrative Assistant I would have for those same duties and responsibilities. Walkden felt that the Appellant provided assistance to and not supervision over the work-study students in her department. He felt that the duties and responsibilities performed by her were “all basic clerical functions” and not the “level of complexity of an Administrative Assistant”. Walkden admitted that there was “no hard line” differentiating the positions Clerk and Administrative Assistant or Administrative Secretary. He also admitted that people holding a clerk position sometimes performed the duties of the two higher positions. The amount of time or the per cent of time performing those higher duties was the determining factor. .(Testimony of Walkden)

14. The core duties established by HRD in their class specifications for the Clerk series are as follows: maintain files and records; answer telephones; prepare and mail outgoing correspondence or parcels; prepare correspondence, forms, and reports for processing, storage or forwarding; answer inquiries; operate standard office machines and equipment; and perform related work as required. (Exhibit 1)
15. The core duties established by HRD in their class specifications for the Administrative Secretary series are as follows: perform and/or coordinate secretarial and clerical activities for an agency executive or manager; receive and screen visitors and telephone calls; take dictation, including that of a confidential nature and type dictated material; compose and/or prepare correspondence; maintain files and perform related work as required. (Exhibit 1)

16. The core duties established by HRD in their class specifications for the Administrative Assistant series are as follows: monitor assigned unit activities; confer with agency staff; maintain liaison with others; review and analyze data concerning assigned unit activities; prepare reports; respond to inquiries; compile data; and perform related work as required. ( Exhibit 7)
17. The reasons given for the Respondent's denial of reclassification to an Administrative Assistant position were that the Appellant's level of responsibility did not meet the standards of an Administrative Assistant. (Exhibit 2).
18. On or about August 3, 2005, the Appellant filed a written appeal to HRD, of Respondent's decision denying her reclassification request. (Exhibit 1)
19. HRD failed to hold a hearing on the Appellant's written appeal of the Respondent's denial of her reclassification request, as mandated by G.L. c.30, § 49. (Administrative notice)
20. HRD denied the Appellant's appeal via letter dated September 20, 2005. HRD's denial letter stated that it concurred with the reasons given for the reclassification denial. (Exhibit 4)
21. At this Civil Service Hearing, the Appellant testified that she had either performed or believed that she could perform all of the duties that are contained in the Massachusetts Department of Personnel Administration Classification Specification for the Administrative Secretary Series and Administrative Assistant series. (Exhibits, Exhibits 1, 6 and Testimony of Appellant and Finnie)
22. The Appellant records, transcribes and distributes the minutes of Departmental Advisory Board meetings and she also provides in put at these meetings. She has

also provided “grant management” services, since 2004, for the faculty in her department, in a timely, thorough and accurate manner. She compiles and analyzes data for 15-20 grants with a value of \$1.7 million for her department. She used “PeopleSoft” software to provide this service, having completed a training session to acquire proficiency with this software. She is the only person in her department who uses this software. She provides all of the routine clerical duties required by her department but also composes letters for the department chairperson and Graduate Program Director. She collects and analyzes data. She types reports, presentations and examinations for the Faculty which requires some technical familiarity and understanding. She is the budget coordinator for the department keeping track of the various accounts through the use of EXCEL spreadsheet. She orders equipment, books and supplies and prepares the invoices for same. She submits and tracks the weekly department payroll. She organizes faculty conferences and makes appropriate arrangements for meals and travel. She is the contact person or liaison for her department with other university units or offices. She keeps track of the necessary records, certifications, activities, grades, schedules and other requirements for the faculty, teaching assistants, graduate students, students and student-interns or work-study students in her department, as requested. She supervises the work-study students in her department. She performs these duties in a competent, discreet, confidential and professional manner. (Exhibits, Testimony of Appellant and Finnie)

23. The Appellant performed a wide variety of duties and responsibilities as an assistant to the Civil and Environmental Engineering Department Chairperson and

as an assistant to the Department Graduate Program Director. She is required to coordinate the collection, analysis, tracking and filing of academic, certification and budgetary etc. information and to foresee any potential problems developing. She is the contact person and confers with the Department Chairperson, Faculty, Teaching Assistants, Graduate students, Undergraduate students, Work-study students and others in the Department. She is also the contact person or liaison for other University units.(Exhibit 6 and Appellant's testimony)

24. The Appellant performs, on a regular basis, all of the core duties established by HRD in their class specifications for the Administrative Assistant series. These core duties are as follows: monitor assigned unit activities; confer with agency staff; maintain liaison with others; review and analyze data concerning assigned unit activities; prepare reports; respond to inquiries; compile data; and perform related work as required. She acts as an administrative assistant to both the Department Chairperson and the Graduate Program Director, 50 % of the time on a regular basis. ( Exhibit 6, Exhibits and testimony)
25. Joseph Walkden tried to distinguish versus the Appellant's responsibilities, the "higher level of responsibility" required for a support position to titles further up the university pyramid or hierarchical structure. Those higher up titles, which employed Administrative Secretary positions, included: University Divisional Head, Dean, Provost, Assistant Vice-Chancellor and Chancellor. Walkden testified generally and generally characterized the level of duties and responsibilities generally. However, the Appellant and Chairperson Finnie described various specific duties and responsibilities performed by the Appellant, including the



supervision of Work-study students and the greater responsibility required for the assistance to Graduate Students, many of whom are foreign. (Testimony of Walkden, Appellant and Finnie)

26. The Appellant's Department is smaller than some other Departments at the University that have Administrative Assistant I positions but the Appellant does not have any other clerical staff in her department, to assist her in her duties and responsibilities. In 2005 the Appellant's department included a Chairperson, a Graduate Program Director, 8 faculty, 4-6 work-study students, 3 Graduate Teaching Assistants and 150 undergraduate students and a fluctuating small number of graduate students. (Exhibit 5 and testimony of Appellant)
27. The Appellant does not have any subordinate clerical support staff yet this is not a critical deficiency to her request for reclassification. Lacking a clerical support staff she is therefore left by default without anyone to directly supervise and also left with all of the support duties and responsibilities that are required or requested by the Department Chairperson, Graduate Program Director, Faculty and others in her Department. Little or no supervision of the Appellant is required by the Department Chairperson. The Appellant is in effect self-starting, self-organizing and self supervised. She performed a greater variety and volume of duties and responsibilities due to a lack of a subordinate support staff. She is a dedicated, diligent and knowledgeable employee, which is conceded by the Respondent. She performed every task asked of her. The Department Chairperson, who worked with her on a daily basis, stated that she performed the duties and responsibilities of the

higher two positions that she sought reclassification to. Her work load increased when her department added a graduate program in 2004. (Exhibits and testimony)

28. The Clerk series is inappropriate for a majority of the functions and level of responsibility actually performed by the Appellant. The Appellant performed the core duties and responsibilities of the Administrative Assistant I position a majority of the time on a regular basis. The Appellant had to routinely exercise sound independent judgment, discretion and knowledge, without the specific oversight of a supervisor. Her higher level of function and responsibility is reflected by the high level of the positions she assisted: Department Chairman, Graduate Program Director and Department Faculty. (Exhibits and testimony)

### **CONCLUSION**

After careful review of the reliable and credible evidence, the Appellant has shown by a preponderance of the credible evidence in the record, the Commission concludes that the decision of the Human Resources Division to deny the Appellant's reclassification request should be overturned and it is warranted that the Appellant's position be reallocated to the classification of Administrative Assistant I.

The Clerk series is inappropriate for a majority of the functions performed by the Appellant. The Appellant performed the core duties and responsibilities of the Administrative Assistant I position a majority of the time on a regular basis.

The Appellant does not have any subordinate clerical support staff yet this is not a critical deficiency to her request for reclassification. Lacking a clerical support staff she is therefore left by default without anyone to directly supervise and also left with all of the support duties and responsibilities that are required or requested by the Department

Chairperson, Graduate Program Director, Faculty and others in her Department. Little or no supervision of the Appellant is required by the Department Chairperson. The Appellant is in effect self-starting, self-organizing and self supervised. She performed a greater variety and volume of duties and responsibilities due to a lack of a subordinate staff. She is dedicated diligent and knowledgeable employee, which is conceded by the Respondent. She performed every task asked of her. The Department Chairperson, who worked with her daily stated that she performed the duties and responsibilities of the higher two positions that she sought reclassification to. Her work load increased when her department added a graduate program in 2004.

The Appellant had to routinely exercise sound independent judgment, discretion and knowledge, without the specific oversight of a supervisor. Her high level of responsibility is reflected by the high level of the positions she assisted: Department Chairman, Graduate Program Director and Department Faculty. The job classification as outlined in the Clerk series fails to accurately describe the scope and range of responsibilities and added duties this long-term, experienced and well thought of employee performs. The large degree of independent judgment and office management skills she routinely exercised without supervision or support also corroborated her higher level of duties and responsibilities.

The Appellant has met her burden of proof to demonstrate that she is improperly classified as a Clerk IV. At the hearing, the Appellant testified that in 2004, her job duties changed significantly. It is clear from a preponderance of the credible evidence in the record, that the Appellant's current job duties accurately reflect those performed by an Administrative Assistant I. The Commission reaches this result based partly on the

testimony of the Appellant and The Department Chairperson John Finnie. They provided examples of her current job duties, and how they corresponded to the duties referenced on HRD's Classification Specification for the Administrative Assistant Series.

Therefore, for all the reasons stated above, the appeal under Docket No. C-05-386 is hereby *ALLOWED*. The Appellant is reallocated to the higher job group or classification of Administrative Assistant I.

Civil Service Commission,

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Daniel M. Henderson,  
Commissioner

By a vote of the Civil Service Commission (Guerin, Henderson and Taylor Commissioners voted yea) Bowman, Chairman and Marquis Commissioner voted nay on February 7, 2008.

A true record. Attest:

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Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

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

Notice:  
James B. Cox, Atty.  
Michael J. Maccaro, Atty  
John Marra, Atty. HRD