

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

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April 8, 2011

Charles Kostro
Executive Director
Essex Regional Retirement System
491 Maple Street
Building 200, Suite 202
Danvers, MA 01923

Dear Mr. Kostro:

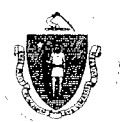
This letter is in response to your e-mail dated March 31, 2011 regarding what criteria should the Essex Regional Retirement System ("ERRS") establish in determining whether the classification of police and fire dispatchers should be in Group 1 or Group 2.

Specifically, you pose the following question:

The staff here has been researching the issue of what documentation is required to grant Group 2 status to dispatchers for Fire and Police who want to be considered signal operators per Chapter 32 §1(g) (*sic*). If possible, can you provide us with some guidance as to what we should be requiring to make a proper determination as to whether an employee is, in fact, performing the duties of a signal operator? I know there is some history here on this issue and the staff believes we may see this issue crop up in the near future. We just want to be as prepared as possible if and when we are faced with this issue.

Please refer to G.L. c. 32 §3(2)(g) which lists positions eligible for Group 2 status. In pertinent part, jobs included in Group 2 as found in said section are: "employees of a municipal department who are employed as fire or police signal operators or signal maintenance repairmen." Group 1 employees are, "[o]fficials and general employees including clerical, administrative and technical workers, laborers, mechanics and all others not otherwise classified."

Civilian dispatchers are to be classified in Group 1, as decided in Rapoza v. State Bd. of Ret., CR-98-609 (DALA 1998). The Rapoza decision detailed some of the hazards associated with the duties of a signal operator or maintenance repairman who are classified in Group 2: "traffic problems, live electrical current, inclement weather, gases, installation of overhead and underground cables ... cable splicing, and the maintenance and installation of police and fire boxes." Civilian dispatchers are not required to perform these types of dangerous tasks, therefore, they are appropriately classified in Group 1.



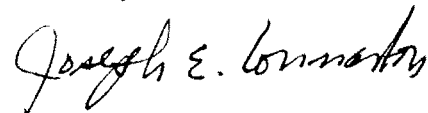
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A civilian dispatcher's job description must include the performance of the hazards associated with signal operators as outlined in the Rapoza decision. If the duties of a civilian dispatcher do not reflect the duties akin to above referenced dangerous tasks of a signal operator, the civil dispatchers must be classified in Group 1, not Group 2.

If ERRS determines that civil dispatchers are properly classified in Group 2, then it has a duty to have the employer confirm that those employees are required to perform duties as listed in Rapoza, CR-98-609 and Graney v. Bristol County Ret. Bd., CR-07-32 (DALA 2011) that are in line with signal operators not civilian dispatchers. Without that confirmation, title alone will not suffice, as the employees are required to perform dangerous tasks as explained in Rapoza. If upon further investigation, the Board finds that the employees are properly classified in Group 2, it should notify PERAC immediately with their findings of their conclusion.

We trust the foregoing is of assistance. If there are any questions concerning this matter, do not hesitate to contact this office.

Sincerely,



Joseph E. Connarton
Executive Director