

and Reservations was one of three and one-half positions which were to be dropped. However, the Appellant was the only employee to be actually laid off because the employees in the other two and one-half positions had previously vacated their positions on their own volition.

Most of the employees involved in the reorganization were affected only in regard to a change in job title, although some minor changes in duties may have also occurred. For instance, Mr. Theron Fisher, the former Assistant Director of Recreation, Arts and Crafts, became the Student Program Advisor for Recreational Activities. Mr. Bruce Johnson, the former Program Director, became the Student Program Advisor for Entertainment and Social Activities.

It is the Appellant's contention that he should also have been reassigned and in particular that he should have been assigned to the position of Student Program Advisor for Student Organizations and Cultural Activities. The Appellant alleges that his former position as Manager for Space and Reservations is essentially similar to the Student Program Advisor for Student Organizations and Cultural Activities position, and that his reassignment would be simply a change in job title just as was the case with Mr. Fisher and Mr. Johnson.

It is the Respondent's contention that the positions of Manager for Space and Reservations and Student Program Advisor for Student Organizations and Cultural Activities are different positions, and that therefore the Respondent is under no obligation to assign the Appellant to the position of Student Program Advisor.

It has been agreed by the parties that the burden of proof shall be on the Respondent.

We find the foregoing facts to be the background facts in the matter and will make additional findings of fact pertinent to the various matters at issue in our decision.

The Appellant Was Laid Off

For Just Cause

The Appellant was laid off for just cause since his position was abolished as a result of a reorganization of student activities. Appellant's contention is that just cause did not exist because his function of arranging for meeting rooms, banquets, and similar events would continue to be performed by student program advisors and that, therefore, the abolishment of his former position was a subterfuge and his layoff was without just cause. We find that the program student advisor position is a different position than the Appellant's former position scheduling the use of student facilities. The advisor's duties involve providing professional leadership to student organizations, primarily the Panhellenic Council, which is an organization of representatives of college sororities and other women's organizations, counselling to students and student organizations and "providing leadership for student organizations in these social, cultural, professional, recreational, self-governmental, minority and community experiences." The essence of the position is to work with students to assist student organizations and activities. This contrasts markedly with Appellant's former position which was essentially administrative in its concern that facilities be used as efficiently as possible. While the student program advisors might become involved in reserving meeting rooms and tasks of that nature, such is incidental to their primary duty of working with student organizations. Many aspects of Appellant's former position were transferred to secretarial personnel. We conclude that Appellant's position as Manager for Space and Reservations was abolished in a reorganization and that the duties of such position were not transferred to the Student Program Advisor position. We conclude further that Appellant was laid off for just cause.

Appellant Is Not Entitled to Reinstatement to the
Position of Student Program Advisor Because Said Position Was
Allocated to a Higher Classification than that Formerly Occupied by Appellant

The Appellant's claim to the position of Student Program Advisor depends upon whether or not he has reinstatement rights to that position. Reinstatement is defined in Wis. Adm. Code Sec. Pers. 16.01 in material part as follows:

"Reinstatement and restoration are acts of re-employment, without competition, of an employe or former employe to a position in the same class in which he or she was previously employed or in a closely related class having the same or lower pay rate or pay range maximum for which he or she meets the qualification requirements." (Emphasis added.)

It is apparent from the above-quoted definition that reinstatement rights only attach to jobs in the same or lower classification as previously occupied by the employee in question. He has no right to be reinstated to any position in any higher classification, and this is true even if he is qualified for that position. If such be the case, the employee or former employee must ordinarily compete for the position in the higher classification through the promotional process. That the rule regarding reinstatement does not contemplate such competitive process is clear from its terms, for Sec. Pers 16.01 refers to reinstatement being an act of re-employment "without competition." The reference would not make sense if reinstatement included within its meaning restoration to a position in a higher classification, i.e., promotion.

The foregoing discussion is relevant to the instant case because the testimony establishes that the newly created position of Student Program Advisor for Student Organizations and Cultural Activities was allocated to a higher classification than that occupied by Appellant. Appellant was initially classified as an Administrative Assistant 1 in salary range 8 and retained that classification until his layoff in June, 1973. But the above-mentioned newly created position was allocated to the Educational Services Intern classification at salary range 10. Appellant's assignment

to the then vacant position would thus have been a promotion, not a transfer, and, as previously stated, mandatory reinstatement applies only to lateral or downward movement, not to promotional movement.

We therefore find that Appellant did not have reinstatement rights to the position of Student Program advisor for Student Organizations and Cultural Activities.

Appellant's only challenge, then, would be to allege that the Student Program Advisor position was incorrectly allocated to the Educational Services Intern classification and that its proper allocation was to the Administrative Assistant I classification. But Appellant in the instant case did not allege incorrect allocation and, in fact, put in no proof whatsoever. He rested on the record as it stood at the close of Respondent's case. We therefore have no occasion to reach the issue of whether the new position was correctly allocated.

For the reasons hereinbefore stated, the action of the Respondent was not improper and must be affirmed.

ORDER

IT IS ORDERED that the action of the Respondent is affirmed.

Dated January 3, 1975

STATE PERSONNEL BOARD

BY



William Ahrens
William Ahrens, Chairman