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 PAUL DELFOSSE,
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 Appellant,
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 v.
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 C. K. WETTENGEL, Director,
 State Bureau of Personnel,
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 Respondent.
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 Case No. 73-86
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OFFICIAL

OPINION
AND
ORDER

Before AHRENS, Chairman, JULIAN and STEININGER.

Background Facts

The Appellant, Paul Delfosse, has been employed by the University of Wisconsin-Green Bay since May, 1970, and is presently classified as a Groundsman. His primary duty and responsibility is the care and maintenance of a nine-hole golf course owned and operated by the University. The course was formerly the Shorewood Country Club, and before the University's acquisition of it, Appellant was employed by Shorewood. Appellant has been involved in golf course maintenance work for over seven years in private and public employment.

Subsequent to the University's purchase of the course, Appellant was classified as a Laborer 2. At the time of the acquisition, the University acquired the services of Joe Bach, who had also been employed by Shorewood. As the result of a Farm Garden and Grounds Survey conducted during 1971-72, Bach's position was reallocated to the newly created classification of Groundsman. He was subsequently promoted, and then, in early 1973, Bach left his position for other employment. After a promotional examination in which Appellant competed, Bach was succeeded by Gerhardt Zeitler. Zeitler was classified as Superintendent of Grounds and thus became Appellant's supervisor, as Bach had been throughout his tenure.

After his original classification as a Laborer 2, Appellant's position was

reallocated to Auto Mechanic 1, but this classification, it is agreed, failed to reflect Appellant's job functions. The only existing classification which Appellant's duties seemed suited for was that of Groundsman, and on April 29, 1973, Appellant's position was reallocated accordingly. Appellant now appeals the validity of his classification on the grounds that his duties and responsibilities differ so substantially from those ordinarily assigned a Groundsman that a new position should be created tailored to the demands of his current employment. As stated in his brief, "i/t is the position of Appellant that the job description of Groundsman is one that would relate to the individual who would have responsibility for maintaining the grounds at the University of Wisconsin-Oshkosh or any other University without a golf course. It does not adequately cover the expertise needed to properly operate and maintain a golf course." (Brief of Appellant, p. 5.)

We find the foregoing facts to be true and material to a determination of this appeal. Other findings will be made in concert with our discussion of the issues raised by this appeal.

The Board Has Jurisdiction To

Consider This Appeal

It is Appellant's position that his position should be reallocated to a higher classification such as "Greenskeeper" or "Golf Course Manager" at salary range 3-09. These classifications do not currently exist, and Appellant insists that they should be created. Though he complains of the class to which he was reallocated, it was in fact the classification Appellant originally sought. The notion, apparently, was to get reallocated to an existing class that was more akin to his functions and then to appeal the Respondent's action on the grounds that said action was improper because the class wasn't enough akin to Appellant's job functions.

Sec. 16.07(2) of the Wisconsin Statutes provides that the director, "...shall ...reclassify or reallocate positions...whenever he finds such action warranted." Reallocation may be based on the creation of new classes. Wis. Adm. Code section

Pers 3.02(2). But closer scrutiny of Sec. 16.07(2) reveals in subsection (a), that the creation of new classes by the director is contingent on Board approval:

"(a)...The director shall establish, modify or abolish classifications as the needs of the service require, and subject to the approval of the Board." (Emphasis supplied.) See also Sec. 16.07(1), Stats.

Though it would not have been proper for the director to have unilaterally created the new class of "Greenskeeper," the Board is not precluded from considering Appellant's claim that his position was incorrectly reallocated. Reallocation is an action of the director and, as such, is appealable to this Board under Sec. 16.05(1)(f), Stats. Should the Board reject the director's action, it may fashion its relief by remanding the case to the director for action "in accordance with the Board's decisions," Sec. 16.05(1)(f), Stats, i.e., for action not inconsistent with its opinion. This Board properly retains authority to reject classification or reallocation actions by the director which it deems to have been incorrect. See Ryczek v. Wettengel, Pers. Bd. Case No. 73-26 (July 3, 1974). Even though in the instant case the director could not have unilaterally created a new classification, his action in reallocating Appellant to the Groundsman classification is properly before the Board as to its correctness.

We find that the Board has jurisdiction to consider Appellant's appeal from the reallocation of his position.

Was the Reallocation Correct?

Turning to a consideration of the merits, we begin by looking to the statutory guidelines to which Respondent must adhere. Sec. 16.07(1), Stats., provides in material part that:

"(1)...Each classification...established shall include positions which are substantially similar in respect to authority, responsibility and nature of work required."

The issue thus becomes whether the nature of the work performed by Appellant as a Groundsman is "substantially similar" to the work performed by others in the state service so classified.

The evidence establishes that there may be only 10, and at most 15, persons in state service classified as Groundsmen. Of these, two (Appellant included) manage golf courses. At present the State maintains only two golf courses, the one Appellant currently maintains and one located in Peninsula State Park in northern Wisconsin. The acquisition of more golf courses does not appear to be currently contemplated though such action is not entirely foreclosed. In any case, the creation of a Greenskeeper class would, at present, change the status of only two state employes.

Despite this, reallocation of Appellant's position must depend on whether duties encompassed by the designation Groundsman are "substantially similar" to those performed by Appellant; whether, in fact, the maintenance of the golf course involves operations of a sufficiently different character as to prevent incorporation into the Groundsman class. To justify establishment of a Greenskeeper classification, it is therefore necessary that the duties attendant to the proposed classification--and to Appellant's present work--deviate considerably from those of a Groundsman.

We believe, and we so find, that the nature of Appellant's work does not differ substantially from the classification to which his job has been assigned. A comparison of exhibits on this point is instructive. Respondent's Exhibit 3, the Groundsman class description, states:

"This is responsible shrubbery and lawn work at medium and large sized state facilities. As a lead worker employes /sic/ in this class are independently responsible for planting and maintaining grass, shrubs, bushes, trees and flower beds and perform other grounds maintenance work as required."

The examples of work to be performed include fertilizing as well as the control of plant insects and diseases "through use of herbicides, insecticides, fungicides and other treatments are required."

Appellant's position description contained in Appellant's Exhibit 8 states that the basic function of Appellant's position is to "maintain greens, fairways, trees, structures, equipment, and facilities of a nine hold golf course. Perform

technical work associated with greens care...Must also maintain all equipment, including specialized turf equipment, used in golf course care." The nature of the work is further indicated under the heading "Work Performed":

"This position directs all greens construction involving grading, soil and turf characteristics, sand trap dimensions. This position also, under the overall supervision of the Grounds Supervisor, applies technical knowledge in directing the installation and maintenance of the drainage and irrigation systems on the entire nine hold course.

Through application of golf rules and user needs, must determine as greenskeeper, the proper placement of greens flags, fairway markers, etc. Directs and participates in cutting greens and fringes, sand trap grooming, fairway and rough mowing, clean up activities, etc."

In addition Appellant is responsible for diagnosing and treating damage to greens caused by fungus, disease or insects through the use of fungicides and herbicides.

While the evidence reveals some differences between Appellant's job and the Groundsman classification, we believe those differences to be insignificant. And we find the nature of Appellant's work to be substantially similar to that of others in the Groundsman class.

The reallocation action of the Respondent is accordingly affirmed.

ORDER

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

Dated

Dec 9, 1974

STATE PERSONNEL BOARD

BY

William Ahrens

William Ahrens, Chairman