

- Assist faculty members in selecting specialized AV equipment to be purchased in support of grant funded research projects
- Assist faculty in identifying types and quantities of AV equipment required to support classroom instruction in new classroom buildings
- Provide research and development assistance for modification and up date of existing mediated instruction facilities
- Consult with faculty concerning new and innovative services. Determine the best means of implementing such improvements
- Coordinate student employment of all Educational Communications departments and maintain student payroll records
- Provide consultation to non-instructional areas concerning selection of media-related equipment purchases to support their programs and activities
- Determine requirements and coordinate the provision of media-related services and equipment for university-sponsored activities
- Maintain cost accounting and income records for services provided

In addition this position requires that the person holding it possess the unique management skills and educational background to work with faculty in effectively applying audiovisual techniques to instructional problems. In accomplishing this, the person must be able to provide leadership of and supervision for the activities of over twenty people." See Appellant's Exhibit 10.

b. Film/Photo Specialist

- "-Shoot 16mm color motion picture film under a wide variety of complex circumstances
- Supervises the implementation of effective lighting for scenes to be photographed
- Responsible for determining lighting ratios, use of proper film emulsion, exposure settings, instructions to lab for processing and printing, etc.
- Directs picture and sound recording on location

- Oversees or personally synchronizes voice and picture tracks and cataloging sequences, shots, and wild sound tracks
- Works with producer, directs creative and effective editing of film sequences, overseeing transfer of sound tracks and acquisition of additional audio effects and music
- Responsible for conforming of original film stock when work-print is employed
- Responsible for structuring, editing, and synchronizing of sound and picture tracks
- Responsible for the transfer of 16mm film to the television format, requiring familiarity with telecine equipment
- Responsible for proper cataloging and librarying of exposed film stock and sequences
- Responsible for recordkeeping involving supplies, time, equipment, etc.
- Shoot B&W or color still photographs under a wide variety of conditions for projects related to educational objectives
- Provide instruction in still photo and/or cinematography to students enrolled in independent study at UWGB

In addition this position requires that the person holding it not only have all of the technical skills necessary to shoot and edit film, but also the directing and management expertise necessary to see cinematography projects through to completion within defined budget and time parameters." See Appellant's Exhibit 9.

3. The duties and responsibilities of the foregoing positions overlapped to some extent those set forth in the class specifications for certain classifications in the classified service, more particularly Photographer, Graphic Reproductions Technician, Broadcast Engineering Technician, Graphic Artist, Transmitter Operator, and Electronics Technician. However, the duties and responsibilities of the positions in question differ from these classifications in that these positions are responsible for working

in an instructional capacity with faculty, staff, and students.

4. Prior to the filling of the two positions in question and since January, 1970, the only filled position at UW-GB among the classified civil service classifications of Graphic Reproduction Tech 1-4, Broadcast Engineering Tech 1-4, Graphic Artist 1-3, Transmitter Operator 1-2, Electronics Technician 1-3, Photographer 1-3, was a position at the Electronics Technician 1 level filled by Mark Habeck through his layoff in June 1975.

OPINION

This case must be decided by the law as it existed prior to the effective date of chapter 196, Laws of 1977. See s.129(5), of that act.

Section 16.08(1), Stats., (1975), provides as follows:

"The civil service is divided into the unclassified service and the classified service."

Section 16.08(2) provides that:

"The unclassified service comprises positions held by:

* * *

(d) All faculty and academic staff, as defined in s.36.05(1) and (8), in the University of Wisconsin system."

Section 16.08(3)(a) provides:

"The classified service comprises all positions not included in the unclassified service."

Subsections 36.05(1) and (8) define "academic staff" and "faculty" respectively, and s.36.09(1)(e) provides that the Board of Regents shall appoint "the requisite number of officers, faculty, academic staff and other employes. . . ." "Academic staff appointments" are further defined in section 36.15.

Clearly the authority to determine what positions shall be academic staff in the unclassified as opposed to the classified service, is vested in the Board of Regents. This matter reached the Personnel Board as an appeal of a non-contractual grievance pursuant to s.16.05(7), Stats., (1975). The Commission cannot conceive any authority for the Personnel Board (to whom this original appeal was made) to review an action taken by the Board of Regents under chapter 36 of the statutes, unless such action involved a violation of a provision of subchapter II of Chapter 16, which constitutes the sphere of program responsibilities of the Personnel Board. See s.15.101(3), Stats., (1975). Therefore, as has already been determined in this case, see Opinion and Order dated December 20, 1978, the only issue which may be considered on this appeal is whether in connection with the transaction in question there was a violation of subchapter II of Chapter 16.

The appellant has argued in its brief that these transactions violated s. 16.08, Stats., (1975). It is argued that s.16.08(3):

"CLASSIFIED SERVICE. (a) The classified service comprises all positions not included in the unclassified service!"
(Emphasis added).

creates a presumption in favor of the classified service. The appellant cites two court decisions, Washington Federation of State Employes, AFL-CIO, Council 28 v. Spokane Community College, 585 P. 2d 474 (Washington 1978), and Illinois State Employes Assoc. v. Dept. of Mental Health and Developmental Disabilities, Cir. Ct. for the 7th Judicial Circuit of Ill., No. 802-78(5/79), which held that there is a policy or presumption in favor

of performing services for the state through the civil service system as opposed to contracting out to the private sector..

These cases are not persuasive given the facts in the case before the Commission. Here it is not a matter of whether it was appropriate to use privately-contracted services instead of the civil service but rather the unclassified civil service instead of the classified civil service. Thus these cases are substantially distinguishable.

Also, the Commission cannot find anything in the plain language of s.16.08, or elsewhere in the statutes, that establishes a policy or presumption in favor of the classified over the unclassified civil service. The statutory scheme divides the civil service into the classified and the unclassified service. There are a number of categories of positions in the unclassified service including faculty and academic staff. The authority to designate positions as faculty or academic staff is vested in the Board of Regents. There simply is nothing in this statutory framework to evidence a presumption for the classified service.

Finally, the Commission notes in passing that even if there were authority to review these transactions against the standards for academic staff contained in chapter 36, this record would support the academic staff designations given the involvement of the positions with faculty, staff, and students in an instructional capacity.

CONCLUSIONS OF LAW

1. Pursuant to chapter 196, Laws of 1977, s.129(5), this case must be decided according to the law that existed prior to February 16, 1978.

2. The Commission's jurisdiction over this appeal is limited to consideration of questions of violation of subchapter II, chapter 16, Stats., (1975).

3. With respect to the designation and filling of the positions in question as academic staff, the respondent did not violate subchapter II of chapter 16, Stats., (1975).

ORDER

The actions of the respondent are affirmed and this appeal is dismissed.

Dated Feb. 15, 1980

STATE PERSONNEL COMMISSION

Charlotte M. Higbee
Charlotte M. Higbee
Commissioner