

STATE OF WISCONSIN

STATE PERSONNEL BOARD

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THOMAS W. CRAMER,

Appellant,

v.

DEPUTY DIRECTOR, Bureau of Personnel,

Respondent.

Case No. 75-177

* * * * *

OFFICIAL

OPINION AND ORDER

Before: James R. Morgan, Calvin Hessert and Dana Warren, Board Members.

NATURE OF THE CASE

This is an appeal pursuant to §16.05(1)(f), Wisconsin statutes, of a reallocation from Unemployment Compensation Supervisor 3 to Job Service Supervisor 3.

FINDINGS OF FACT

1. At all relevant times the appellant has been employed in the classified service, Department of Industry, Labor and Human Relations, Job Service Division, Bureau of Benefit Procedures, CETA (Comprehensive Employment and Training Act) payment section chief.

2. The duties and responsibilities of appellant's position in summary are as follows:

- a) Development^{*} and implementation of an allowance payment system under CETA.

* While a number of people had some input into the developmental stage, appellant had the major input.

- b) Supervision of payment system on an ongoing basis, including budget management and the supervision of nonprofessional and nonparaprofessional staff.
 - c) Coordination and liason activities including the negotiation, monitoring and reviewing of contracts to supply an allowance payment system with CETA prime sponsors, the provision of technical assistance on allowance payments to the state manpower council and CETA prime sponsors, other liason with job service district offices, prime sponsor intake centers, training institutions, and other agencies regarding various facets of the allowance payment system:
3. The appellant reports to the bureau director through the assistant bureau director.
4. The appellant works under general supervision.
5. The classification factors established by the Bureau of Personnel for both the job service specialists and job service supervisors as part of the positions standards are as follows:
- 1) Organizational status as it relates to level of responsibility.
 - 2) Availability and applicability of established job service guidelines, procedures, precedents, and legal interpretations.
 - 3) Potential impact of policy and/or program decisions on claimants, employers, job seekers, and overall Division operations.
 - 4) Degree of internal and external coordination and cooperation required.
 - 5) Availability of other staff (either within the Division or at the Regional Office) whose authority it is to make the most difficult and unprecedented program decisions or legal interpretations).
 - 6) Complexity of employment services or unemployment compensation work performed.
 - 7) Professional and paraprofessional staff size if applicable.
6. The position standards for Job Service Supervisor 3 are as follows:

Definition

This is very responsible professional supervisory job service work in the Department of Industry, Labor and Human Relations.

Positions in the field offices allocated to this class typically report directly to a Job Service Office Director and supervise a medium sized unit of professional and paraprofessional staff in a major segment of the total field office program such as Employment Assistance in a medium or large district job service office.

Also allocated to this class are positions in the Milwaukee metropolitan area supervising 1) a medium sized staff in advanced professional level program activities or 2) a large unit of professional and paraprofessional staff engaged in placement services or a comparable specialty.

Positions in the administrative office allocated to this class are typically Section Chiefs and carry responsibility for a statewide job service program 1) which requires the supervision of support staff and the exercise of considerable independent judgment in the development of program objectives and methods to be carried out at the field office level or 2) which involves the supervision of a medium sized staff engaged in advanced professional level program activities.

Work at this level is performed under general supervision.

Representative Positions

Field Offices

Supervisor, Medium-sized Adjudications Unit - supervise a medium-sized unit of disputed Claims Adjudicators, serve as expert in all phases of the Unemployment Compensation law in the geographic area, develop and conduct public relations and public information programs in the area. Positions in this category report directly to a Job Service District Director.

Supervisor, Employer Services, Milwaukee Area Job Service - supervise medium unit of professional staff in the provision of employer services, development of on-the-job training contracts, consultation with employers on personnel and related activities for the Milwaukee area.

Administrative Office

Chief, Interstate Benefits Section, Bureau of Benefit Procedures - plan, develop, implement, and evaluate state activities in the processing of Unemployment Compensation claims filed against Wisconsin by claimants living outside the state; supervise a medium section of professional and paraprofessional staff plus clerical support staff in related activities.

7. The position standards for Job Service Supervisor 4 are as follows:

Definition

This is highly responsible professional supervisory job service work in the Department of Industry, Labor and Human Relations.

Positions in the field offices allocated to this class supervise a large unit of professional and paraprofessional staff in a major segment of the total field office program, such as Employment Assistance, in one of the largest district job service offices.

As section chiefs, positions in the administrative office allocated to this class carry responsibility for a large complex statewide job service program including the supervision of staff assistants. Frequent, difficult, and unprecedented policy and program decisions which have a significant impact on overall Division operations and Division clients are typical at this level.

Work at this level is typically performed under the general administrative supervision of a Job Service Director or Bureau Director.

Representative Positions

Field Offices

Supervisor, Large Employment Assistance Unit - supervise a large unit of professional and paraprofessional staff in all placement, rural service, employer relations, labor market information, special applicant group promotion, food stamp, and related activities in a job service district. Positions in this category report directly to a Job Service Director.

Administrative Office

Chief Delinquency Section, Bureau of Coverage and Contributions - plan, develop, implement and evaluate program to resolve serious employe delinquency problems prior to legal action; supervise section of professional and paraprofessional staff in related program activities.

Supervisor, Migrant Services, Bureau of Central Operations - plan, develop, implement and evaluate a program 1) service to employers of seasonal labor in agricultural and food processing activities; 2) recruitment of migrants, and 3) provision of services to migrants such as the investigation of migrant complaints and the identification of violation in labor laws.

8. The position standards for Job Service Specialist 6 are as follows:

Definition

This is highly responsible professional job service work in the direction of job service program activities of the Department of Industry, Labor and Human Relations. Positions allocated to this class are located in the Administrative Office and are responsible for planning, monitoring, and evaluating a large, complex, statewide job service program carried at the field office level. Frequent, difficult, and unprecedented policy interpretation; and program decisions which have a significant impact on overall Field Office job service activities are typical at this level. Leadwork may be a responsibility of positions at this level. Work is performed under general administrative supervision of a Bureau Director.

Representative Position

Administrative Office

CETA Prime Sponsor Contract Specialist - carry responsibility for monitoring, evaluating, controlling, and providing professional consultation in the negotiation and implementation of CETA contracts between Local Prime Sponsors and Job Service Division; act as liaison between the Job Service Division and other agencies involved with CETA.

9. The appellant's work does not include responsibility for a large complex statewide job service program as the terminology "large complex" is used in the position standards.

10. Appellant does not supervise staff assistants.

11. The appellant's work does not typically involve "frequent; difficult, and unprecedented policy and program decisions which have a significant impact on overall division operations and division clients," as this terminology is used in the position standards.

12. The appellant's work does not typically involve "frequent, difficult, and unprecedented policy interpretation and program decisions which have a significant input on overall field office job service activities," as this terminology is used in the position standards.

CONCLUSIONS OF LAW

1. The Personnel Board has jurisdiction over this appeal pursuant to §16.05(1)(f), Wisconsin statutes.

2. The burden of proof is on the appellant to show that the director acted incorrectly in reallocating his position in the manner that he did.

3. The appellant has failed to discharge his burden of proof that the reallocation was incorrect.

4. The appellant's position was correctly classified at job service supervisor 3.

OPINION

The position standards for both job service supervisor 4 and job service specialist 6 indicate a reporting relationship directly to a bureau director. The reporting relationship of appellant's position is through an assistant bureau director. The appellant argued that this fact is not significant since this reporting relationship exists primarily on paper and in practice he has functioned quite independently. However, it is certainly not unusual for responsible professional employees who are doing a good job to function relatively independently with little actual supervisory direction. The reporting relationship is an indication of responsibility and accountability regardless of whether it has significant tangible input into the day-to-day operations of a particular position.

Both position standards have similar language about frequent, difficult and unprecedented policy and program decisions which have a significant impact on agency operations and division clients. The allowance payment system uses standards derived from outside the payment section, such as the federal administrative regulations. The system for payment of allowances is more clerical and administrative in nature rather than substantive and policy oriented. These criteria are closely related to the 7 classification factors cited in the findings. Without going through each of the factors and each of the benchmark and other comparable positions analyzed by the bureau at the hearing, the appellant's position did not compare favorably with the other positions classified at the higher pay ranges in most respects.

The appellant has argued against comparing his position in CETA with other positions in unemployment compensation on the grounds that "the programs are different, with many differences in duties and responsibilities." Appellant's

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brief, p. 3. However, there are basic concepts, such as relative impact of decisions made, level of responsibility, and so on, that can be applied as a basis for comparison among various and diverse positions and programs as was done here. These basic concepts are reflected in the classification factors, which are a means of comparing and classifying different positions in different programs that perform different functions.

For example, one of the "benchmark" positions for the job service supervisor 4 level is chief, delinquency section, bureau of coverage and contributions whose function is summarized in the position standards as "plan, develop, implement and evaluate program to resolve serious employer delinquency problems prior to legal action." See respondent's exhibit 3 c.

While there are some areas of similarity between this position and the chief of the allowance payments section, there are distinct differences under the classification factors which demonstrate the basis for the difference in classification between the two positions. The delinquency chief supervises approximately 6 professional and paraprofessional staff while the appellant has none. In terms of the potential impact of the positions, the delinquency section is involved in negotiating with employers and attempting to persuade them to pay taxes that are delinquent or at least disputed prior to the initiation of legal action by the agency. Thus these decisions have an impact on the amount of money that is paid into the program and whether the agency may be required to engage in what are in some cases protracted legal proceedings. The decisions made by appellant do not have this kind of effect on agency operations. In terms of the complexity of the work, the delinquency section is involved in interpreting sections of the law that are in dispute and attempting to persuade employers who in some cases are delinquent and who in some cases dispute the

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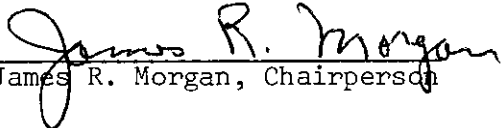
agency in its interpretation of the law to voluntarily make payments rather than to contest the agency in legal proceedings. While the appellant has to interpret some regulations and guidelines, his units' functions do not have the adversarial overtones and is not continually involved in disputed interpretation of the law as is the delinquency section.

ORDER

The action of the respondent is affirmed and this appeal is dismissed.

Dated: May 18, 1978

STATE PERSONNEL BOARD


James R. Morgan, Chairperson