

STATE OF WISCONSIN

STATE PERSONNEL BOARD

* * * * *

GERALD BEDNAROWSKI,

Appellant,

v.

SECRETARY, Department of Health and
Social Services and DEPUTY DIRECTOR,*
Bureau of Personnel,

Respondents.

Case No. 76-144

* * * * *

OFFICIAL

OPINION AND ORDER

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

NATURE OF THE CASE

This is an appeal from the reclassification of appellant's position to Teacher Level 4 instead of Teacher Level 5 or 6.

FINDINGS OF FACT

1. Appellant is a permanent employe working at the Wisconsin State Prison, Waupun. When he began his employment on September 3, 1974, his position was classified as Teacher Level 1.
2. In 1975 appellant requested that his position be reclassified to Teacher Level 6. His position was reclassified to Teacher Level 4 effective July 20, 1975. It was from this action that appellant appealed.
3. Appellant teacher five courses (seven classes): psychology (two classes), black history, job relations, independent study of social studies (two classes), and GED preparation (preparation course for high school equivalency test). The psychology course is designed for students who have had no previous courses in the

subject and who would not be expected to take any additional courses. The course is taught on a ten month basis with ten one month units. The job relations course is designed for vocational or technical students with one of its goals to teach them satisfaction in a work routine.

4. Appellant's students are convicted felons whose ages range from 18 to 60 years old. The majority of his students are in their twenties.

5. The position description for appellant's position summarizes the job as follows: "To instruct inmates in American History, Psychology, Sociology, World History, Political Science, Geography, and Minorities Studies. (Appellant's Exhibit #9.)

The positions's duties and responsibilities are:

65% Instructing; counseling, and arranging classes in American History Psychology, Sociology, World History, Political Science, Geography, and Minorities Studies.

20% Preparation of teaching materials.

5% Evaluation of student capabilities and progress.

5% Record keeping, selecting and ordering supplies, and preparing reports.

5% Institutional and staff conferences. (Appellant's Exhibit #9.)

6. Six courses totaling eighteen credits were not considered in determining the appropriate classification of appellant's position. Respondent refused to consider these on the grounds that they were not relevant to appellant's position. The courses by title were: Use of Tests in Counseling (3 credits), the Counseling Process and Pre-Practicum (3 credits), Guidance in the Elementary and Junior High School (3 credits), Counseling Practicum (4 credits), Seminar in Guidance (3 credits), and Independent Study (2 credits).

7. The six courses were ones whose primary purpose was to teach counseling principles and techniques. They were intended to be taken by students majoring in guidance counseling.

8. In determining that appellant's position should be a Teacher Level 4, respondents did recognize that some of the graduate counseling courses taken by appellant were relevant to his position.

9. Appellant has a masters degree in guidance and counseling.

10. Appellant was not hired to be a guidance counselor to the inmates. There are at the prison two full time counselors who are certified by the Department of Public Instruction. Certification is gained through a degree in counseling plus 30 months of teaching. In addition there are ten social workers who work at the prison plus various medical personnel.

11. The respondent Bureau of Personnel has set forth standards for the evaluation of a teacher's training and experience in the Explanation and Application of Pay Schedule #13, Education Unit, Compensation and Pay Plan, (Respondent's Exhibit #1). According to that explanation, Teacher Levels 4,5, and 6 are evaluated based upon the following requirements:

Teacher Level 4 - Bachelor's degree and certification plus 24 semester credits, which is defined as:

A Bachelor's degree from an accredited college or university and certification as a Teacher by the Department of Public Instruction or the State Board of Vocational, Technical and Adult Education plus 24 additional relevant credits approved by the employing department, with no teaching or other work experience necessary.

* * *

Teacher Level 5 - Master's degree and certification or a Bachelor's degree and certification plus 30 semester credits, which is defined as:

A Master's degree (which the employing department has determined is appropriate for the position) from an accredited college or university and certification as a Teacher by the Department of Public Instruction or the State Board of Vocational, Technical and Adult Education, with no teaching or other experience or additional relevant credits necessary.

(OR)

A Bachelor's degree from an accredited college or university and certification as a Teacher by the Department of Public Instruction or the State Board of Vocational, Technical and Adult Education plus 30 additional relevant credits approved by the employing department, with no teaching or other work experience necessary.

* * *

Teacher Level 6 - Master's degree and certification plus 12 semester credits or a Bachelor's degree and certification plus 42 semester credits, which is defined as:

A Master's degree (which the employing department has determined is appropriate for the position) from an accredited college or university and certification as a Teacher by the Department of Public Instruction or the State Board of Vocational, Technical and Adult Education plus 12 additional relevant credits approved by the employing department, with no teaching or other work experience necessary.

(OR)

A Bachelor's degree from an accredited college or university and certification as a Teacher by the Department of Public Instruction or the State Board of Vocational, Technical and Adult Education plus 42 additional relevant credits approved by the employing department, with no teaching or other work experience necessary. (Respondent's Exhibit #1 at 139 and 140.)

CONCLUSIONS OF LAW

1. The Personnel Board has jurisdiction to decide the issues raised in this appeal under s. 16.05(1)(f), Wis. Stats., (1975).
2. The burden of proof in appeals taken from decisions of the Director under s. 16.05(1)(f), Wis. Stats., (1975) is on appellant. Alderden v. Wettengel,

Bednarowski v. DHSS & Bur. of Pers.
Case No. 76-144
Page Five

73-87 (June 2, 1975); Lyons v. Wettengel, 73-56 (November 20, 1974).

Appellant must establish to a reasonable certainty by the greater weight or clear preponderance of the evidence that this position should be classified at Teacher Level 5 or 6. Reinke v. Personnel Board, 53 Wis. 2d 125 (1971).

3. Appellant has failed to sustain his burden.

OPINION

In O'Rourke v. Carballo, Case No. 76-129 (10/12/77), the appellant was a physical education teacher seeking to have certain credits and a masters degree in secondary school administration counted toward determining the appropriate level of his position. In determining that the credits were not relevant to the appellant's particular position, this Board held:

"Appellant's second argument is that certain of his courses were rejected as irrelevant and credits denied when in fact those courses were relevant to his position. The appellant has shown that the courses for which credit was denied provided him with insight into his job and covered some of the same subject areas as courses determined to be relevant to his position. That showing is not sufficient, however, to demonstrate that the respondent erred in evaluating the relevancy of the courses and denying the appellant credit for certain of his courses. The rejected courses were listed as administration courses rather than education courses and the appellant has not shown that the courses aided his development as a teacher rather than as an administrator. True, the administrative courses covered some of the same subject areas as the education courses. But the treatment of the subject areas has not been shown to be related to the appellant's development as a teacher other than for the value of the insight into his position gained by his perspective as an administrator. The respondent could properly refuse to find such insight to be relevant to the position's duties and responsibilities. Case No. 76-129 at 4-5.

The courses appellant seeks to have considered toward his classification level are primarily ones taken by persons majoring in counseling. There is one course, Use of Tests in Counseling, which is accepted by the University of

Bednarowski v. DHSS & Bur. of Pers.
Case No. 76-144
Page Six

Wisconsin - Oshkosh as a substitute for an education course, Secondary
Education: Measurement and Evaluation.

We do not doubt that these courses were of personal and professional
value to appellant. However, in determining relevancy one must look to the
nature of the teaching position and the value to that position from having the
teacher take the course in question.


Appellant is a teacher responsible for teaching history, psychology, social
studies and GED courses. Appellant does not teach guidance and he is not a
guidance counselor. We recognize that part of appellant's job as a teacher
involves counseling. The primary thrust of this counseling is as it
pertains to the courses he teaches and the progress his students are making.
Respondent has recognized this counseling aspect of appellant's job by finding
relevant for the determination of the level of his position certain courses
which primarily taught counseling principles. We concur with respondents that
appellant's position does not require the emphasis on counseling that lighten
additional credits reflect. We conclude that respondents' decision was correct
and must be affirmed.

ORDER

IT IS HEREBY ORDERED that respondents' action is affirmed and this appeal
is dismissed.

Dated: June 16, 1978

STATE PERSONNEL BOARD



James R. Morgan, Chairperson