



description for the position (Respondents' Exhibit 1) by the supervisor of the position who served as the subject matter expert for the process, and the completion by her, in conjunction with a personnel analyst, of a position analysis interview form (Respondents' Exhibit 2). This form identifies the major accomplishments expected of the position, the tasks related to the achievement of those accomplishments, and the knowledges, skills, and abilities needed to perform those tasks. The next step in the process was the preparation of a high importance job content questionnaire (Respondents' Exhibit 4) by the job expert and the personnel analyst. The function performed by the preparation of this questionnaire is the evaluation of the information contained on the position analysis interview form in terms of the relative importance of the tasks and the knowledges, skills and abilities. The next step in the process was the development of the examination plan (Respondents' Exhibit 10). This plan was developed by the departmental personnel analyst working with a test expert in the state bureau of personnel and the job expert. In preparing this document they determined the job elements to be examined, their percentage of the total score, and how they would be examined (i.e., oral or written). These determinations were based on an analysis of the information contained on Respondents' Exhibit 4 as well as considerations relating to technical criteria and the state of the art in testing. In other words, the persons working on the examination considered not only the relative importance assigned to the elements but also the ability of various examination techniques to measure them, in determining what should be examined for, in what percentages, and by what means. Summarized, the elements identified for examination and their relative weights were:

Problem solving knowledge	50%
Coordination of effort	20%
Technical competence	15%
Oral communications	10%
Staff supervision	5%

Following the development of the examination plan, the specific questions (Respondents' Exhibit 11) and scoring guidelines (Respondents' Exhibits 13 and 14) were developed by the examination and job experts.

The respondents selected three raters to score the written examination. These were all state employes who either had worked in the classification of the position in question or had directly supervised such positions.

The reliability coefficient for the oral exam was 9.865. A statistically significant reliability coefficient for 16 candidates (17 were examined here) would be 0.468 (Elementary Statistics, Underwood). The figure reached here is not only statistically significant, it shows a relatively high correlation among the raters which indicates that they generally had the same idea of what they were looking for and generally were in agreement in their assessment of the candidates.

The respondents' only witness at the hearing on this matter was the supervisor of the employe selection unit in the state bureau of personnel. As such he has supervised, for approximately 2-1/2 years, the professional employes who develop examinations and who work with personnel specialists in other agencies who develop examinations on a delegated basis. Prior to this, he was employed for approximately three years as an examination development technician.

#### CONCLUSIONS OF LAW

These conclusions will be organized around the issues identified at the prehearing conference, with the exception of those issues which appellant elected not to pursue at the hearing.

"1. Was the coverage of the written exam adequate?"

The appellant argues that the examination covered only problem solving while there were eight items listed on the examination announcement as essential skills,

knowledges, and abilities, and that there were at least five major areas that should have been covered in the written examination to properly sample the examinees' skills, knowledges, and abilities:

- "1) Budget Development
- 2) Management Analysis/Program Evaluation
- 3) Problem solving--Practices, Policies, Organization
- 4) Communications--Orally and in Writing
- 5) Administering and Supervising Staff"

The respondents' expert witness in his testimony agreed that these items identified by appellant were similar to the elements identified by the respondents (problem solving knowledge, coordination of effort, technical competence, oral communications, staff supervision), but disagreed with the contention that the examination only covered problem solving, and contended that analysis of the examination and the criteria provided the raters establish that all the elements (except oral communications) were measured by the written examination. He also provided the opinion that because of the weight attached to problem solving (50%), it would not have been inappropriate from a technical perspective if the written exam had covered only problem solving.

Even under judicial review using technical validity as a standard,\* the courts have not required precise equivalence between the weights assigned the job elements in the examination process and the weights identified through the job analysis. See Kuter and North v. Wettengel, Wis. Pers. Bd., No. 73-152, 159 (7/3/75), p. 14, reversed on other grounds, DOA v. State Personnel Board, No. 147-407, Dane County Circuit Court, 2/25/77.

Based on the record in this case, it cannot be concluded that the coverage of the written examination was inadequate. The key element (50%) identified by the job analysis clearly received adequate coverage, and elements comprising another 25% (coordination of effort and staff supervision) were also covered.

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\* In this case the issue of validity was withdrawn by the appellant.

"2. Was it unfair to base the written examination on a candidate's specific experience in solving specific problems?"

The appellant argues that this unfairly limits and restricts persons who are younger, who have been in positions that did not provide them with organizational problems or who were simply not assigned duties or authority to solve such problems. He also argues that the examination was biased so as to downgrade examinees who presented relatively simple, non-complex problems which could be solved by implementing a simple solution, and that he believed that persons whose problems concerned budget and management analysis were probably graded higher on that basis alone. See appellant's Exhibit 1.

On this issue the respondents' expert testified that the trend in employment testing is away from generalized aptitude-type testing and towards a focus on actual rather than hypothetical data and that the implementation of this trend contributed to a more job-related examination process.

While this approach works to the detriment of the less experienced candidates, the bureau's statutory charge is to develop examinations "of such character as to determine the qualifications, fitness, and ability of the persons examined." Sec. 16.12(4), Stats., and it cannot be concluded that the approach taken here was "unfair."\* To the extent that the examination favored examinees presenting more complex problems requiring more complex solutions, it is consistent with the basic examination theory utilized by respondents.

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\* It is noted that there was no charge that the examination discriminated improperly against women or minorities. Such an allegation would bring into play different issues which need not be addressed on this record.

With regard to appellant's third argument on this issue, there is no evidence to support it.

"3. Should the individual questions and subparts thereof have been separately weighted on the written examination?"

The appellant argued that the two questions on the exam were quite different and should have been scored separately, that the scoring guidelines are of limited relevancy to the second question, and that he would have gotten at least a score of 80 on the second question had it been scored separately. The respondents' expert offered the opinion that the questions and criteria were interrelated and stated that this, plus the fact that the experts were highly qualified, made it appropriate to use one grade for the entire written examination. He also stated that in his opinion all the criteria were relevant to the second question.

On this issue we cannot conclude that the respondents erred in not scoring the examination parts separately. On their face the questions appear to be sufficiently similar and the criteria sufficiently interrelated to each other and the questions. Although both the appellant's and the respondents' experts' testimony on this issue was largely conclusory in nature, the factors of the respondents' witness' expertise, that the appellant has the burden of proof, and that the questions and examination criteria are at least on their face not inconsistent with respondents' position, lead to a conclusion favorable to the respondents. With regard to appellant's argument that his answer to question two was worth at least an 80, and that this was evidence of the need to have scored the questions separately, it cannot be concluded that the respondents erred in their scoring, based on the examiners' expertise, the statistical analysis of their results, an analysis of the answer which at least on its face does not demonstrate inconsistency with the score, and the fact that the appellant has the burden of proof.

"6. Were the examination functions carried out in conjunction with this examination performed within prescribed standards under §16.03(2), Wis. Stats.?"

The appellant argues that the director may not delegate functions or authorities he does not possess under Chapter 16, and that he does not have the authority to use three state employees who are not employees of either the bureau of personnel or the department of administration, that such usage constitutes a specially constituted board of examiners, that the only such boards authorized by statute are oral examination panels which, pursuant to Sec. 16.12(3), Stats., must contain one or two members who are not state employees. The appellant also argued that the legislative intent with regard to Sec. 16.12(3), Stats., was to provide for certain safeguards for oral examinations since they are subjective in nature, and that an essay examination as was used here is no less subjective.

The director has broad powers under subchapter II of Chapter 16. For example, see Sec. 16.03(1) and (3), Stats.:

"(1) The director is charged with the effective administration of this subchapter. All powers and duties, necessary to that end, which are not exclusively vested by statute in the personnel board or appointing authorities, are reserved to the director.

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"(3) The director may utilize the services of technical or specialized personnel to assist him in implementing and maintaining a sound personnel management program. These services may be obtained from persons within or without state service."

Given such broad authority, it does not follow that the director must find a specific statutory provision to enable him to appoint raters for a written exam who are state employees outside of the bureau and the department. Sec. 16.12(3), Stats., by its terms applies only to oral examinations and

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has no application here. There is no need to try to seek out legislative intent when a statute is clear on its face. It is concluded that the examination functions were performed within prescribed standards under Sec. 16.03(2), Stats.

ORDER

The actions of respondents are affirmed and this appeal is dismissed.

Dated: 10-12, 1977. STATE PERSONNEL BOARD

  
James Morgan, Chairperson