

In an interim decision dated January 30, 1979, the Commission dealt with certain collateral matters relating to discovery and prehearing procedure.

The findings which follow are based on facts which are uncontested. Since there are no disputes as to any material facts, there is no need for an evidentiary hearing. The Commission's decision of this appeal accepts as true all of the factual matter contained in the appellant's letter to the Commission dated February 12, 1979.

FINDINGS OF FACT

1. The appellant was given an oral interview by the respondent LAB for a position in the classified service as Legislative Auditor 2 on August 7, 1978.
2. The appellant was interviewed on a transfer or voluntary demotion basis, not having been certified for the position at this time.
3. The interview mostly dealt with content specified in the exam plan checklist for the competitive examination given in connection with this vacancy.
4. The exam plan checklist with attached memo indicated that four dimensions would be measured on a written examination and LAB was to measure the fifth dimension.
5. The Wisconsin Personnel Manual-Staffing, Chapter 134, states in part:

"... an examination plan approved by the appropriate division of personnel analyst in the division of personnel must be followed in establishing any employment register."

CONCLUSIONS OF LAW

1. The employment interview in which the appellant participated on August 7, 1978, was not subject to the legal requirements of an exam.
2. The Division of Personnel is not an appropriate party to this appeal.

OPINION

The appellant has not cited any authority for the proposition that his oral interview was subject to the legal requirements of an exam. The personnel manual reference has no bearing on the question. To begin with, it does not have the force of law. Second, the provision cited is that an exam plan approved by the Division of Personnel must be followed in establishing an employment register. It certainly does not require that pre-employment interviews be subject to the legal requirements of an exam. The fact that the exam checklist called for LAB to measure a fifth dimension also has no bearing on this question. Finally, the fact that the content of the interview closely paralleled that of the exam plan checklist is also immaterial to this issue.

There is no requirement that an appointment pursuant to transfer or voluntary demotion be preceded by examination. There is no requirement that an employment interview either of a transferee or a certified applicant meet the legal requirements of an examination. The fact that such an interview closely resembles in content the examination neither makes the interview an examination nor subjects it to the requirements for examinations.

The Commission having answered the first issue, whether the employment

issue was subject to the legal requirements of an examination, in the negative, it follows that the second issue, "if so, whether those requirements have been met," is not reached. It further follows that the Division of Personnel, which is responsible for civil service exam functions, is not an appropriate party.

ORDER

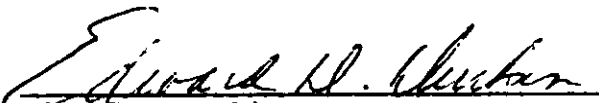
The Division of Personnel is dismissed as a party respondent. The actions of the respondent Legislative Audit Bureau are affirmed and this appeal is dismissed.

Dated: March 9, 1979.


State Personnel Commission



Joseph W. Wiley
Commission Chairperson



Edward D. Durkin
Commissioner



Charlotte M. Higbee
Commissioner

AJT:skv

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