

STATE OF WISCONSIN

PERSONNEL COMMISSION

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NORBERT M. HOLMBLAD,

Appellant,

v.

The Division of Personnel &
The Legislative Audit Bureau,

Respondents.

Case No. 78-169-PC

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PREHEARING
ORDER

This matter is before the Commission on two issues. The first involves a question of the nature of the handling which should be afforded an examination document provided by the Division of Personnel.

The appellant requested the release of a certain examination document called an "exam plan checklist." The Division of Personnel submitted this document to the Commission as a sealed exhibit. The Division identified this document as confidential on the ground it is the basic outline of the examination. It was provided with the request that the Commission make it available to Mr. Holmblad for his inspection but not permit him to make copies of it or take notes on the substance of it.

The appellant has objected to these restrictions, arguing that the document contains information previously released to him, mostly elaborates on job knowledge requirements which were listed in the job announcement bulletin, contains no information which would have affected his score on the exam, and mainly addresses procedures for the exam.

The Division of Personnel has responded that the exam plan identifies the dimensions measured by the exam and describes various criteria for

evaluation which pertain to the examination in question as well as to future examinations. The Division argues that release of copies of this document would give the appellant an unfair advantage in future exams.

The State's interest in the confidentiality of examinations is well recognized by statute and administrative code rule. Section 230.16(10), Wis. Stats., provides:

"Every precaution shall be taken to prevent any unauthorized person from gaining any knowledge of the nature or content of the examinations that is not available to every applicant."

See also § Pers. 6.08(1)(b), WAC:

"Information which shall not be released to the examinee or his or her representative under this section includes but is not limited to the following: copies of examination booklets or scoring keys ...,"

and § Pers. 6.09(2):

"The director shall provide approximate security for all written examination materials."

In the opinion of the Commission the restrictions requested by the Division are reasonable and will be continued.

The second matter before the Commission involves the respondent Legislative Audit Bureau's motion to dismiss the appeal. In the prehearing conference report dated November 1, 1978, the appellant was directed to serve and file within three weeks a letter outlining certain facts and arguments relative to this appeal. By a letter dated November 22, 1978, the appellant stated that until there was a ruling on the questions of the confidentiality of the exam plan "there will be a delay in submitting my arguments on this case. I believe I should more thoughtfully review the documents and make notes concerning them."

The respondent Audit Bureau argues that the appellant's ex parte postponement in filing the document directed by the prehearing conference report is improper administrative procedure. The Commission agrees that the appellant more properly should have requested a postponement, but the failure to do so does not constitute grounds for dismissal of the appeal. The bureau also argues that the exam plan is irrelevant as a matter of law to the appellant's case. This is an issue that will be considered when reviewing the appellant's statement of facts and arguments as set forth in the conference report and there is a clearer picture of exactly what the appellant's contentions are.

ORDER

The appellant's objections to the handling of the exam plan submitted by the Division of Personnel are overruled. The respondent Legislative Audit Bureau's motion to dismiss the appeal is denied. The appellant will serve and file a letter as set forth on page 1 of the conference report dated November 1, 1978, within 2 weeks of the date of this order. The respondents will have 2 weeks thereafter in which to respond and the appellant will have one week thereafter in which to reply.

Dated: Jan 30, 1979.

State Personnel Commission

Joseph W. Wiley
Joseph W. Wiley, Commission Chairperson

Charlotte M. Higbee
Charlotte M. Higbee