

STATE OF WISCONSIN

PERSONNEL COMMISSION

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BRAZEAU & JOHNSON, *

Appellants, *

v. *

Administrator, DIVISION OF *

PERSONNEL, *

Respondent. *

Case No. 79-PC-CS-357 *

* * * * *


ORDER


This matter is before the Commission following the promulgation of a proposed decision and order. The Commission has considered the objections and arguements of the parties and has consulted with the hearing examiner. The Commission adopts and incorporates by reference, as if fully set forth, as its final decision in this matter the proposed decision and order, a copy of which is attached hereto, with the following amendment which is made to better reflect the record. At page 5 of the proposed decision and order, the next-to-the-last paragraph is deleted and the following paragraph is substituted in its place:

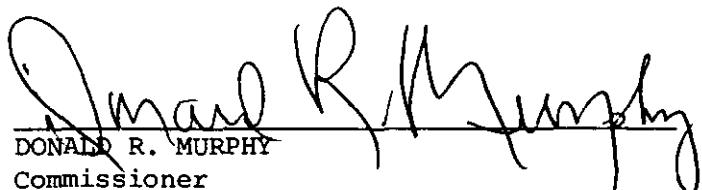
Because the appellant's immediate supervisor was located many miles away, in Madison, they had to make most of the day-to-day decisions on their own. Respondent's expert witness, Tony Milanowski, admitted that they "do have more control over what they do." He also testified that they "do have a degree of personal and procedural control" and that they "were responsible for some parts of the program"

Dated: Sept. 4, 1981

STATE PERSONNEL COMMISSION


GORDON H. BREHM
Chairperson


CHARLOTTE M. HIGBEE
Commissioner


DONALD R. MURPHY
Commissioner

AJT:ers

Parties

Rosemary Brazeau
1318 N. Bel Ayr Dr.
Waukesha, WI 53186

Marilyn Johnson
Route 1, Box 12
Irma, WI 54442

Charles Grapentine
P.O. Box 7855
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4. The issues agreed to by the parties are as follows:

"Whether or not the administrator's decision to reallocate the appellants' positions from Typist 3 (PR 2-05) to Program Assistant 1 (PR 2-06) was correct?"

Subissue: Should the appellants' positions be classified as Program Assistant 1 (PR 2-06) or Program Assistant 2 (PR 2-07)?"

5. Appellants Brazeau and Johnson provided clerical support work for the Exceptional Education Needs Programs (EEN) within the Department of Health and Social Services, Division of Corrections. Ms. Brazeau worked at the Ethan Allen School at Wales, Wisconsin and Ms. Johnson at the Lincoln Hills School at Irma, Wisconsin. The EEN programs provide individual special educational programming for residents of schools to age 18 as mandated by state and federal statutes.

6. Both appellants' primary duties and responsibilities as listed on their position descriptions, included:

a) Developing and maintaining all records, reports and statistics on all EEN students at their respective institutions as required by the state and federal governments (40% of work).

b) Typing of reports and correspondence (30%).

c) Managing their respective offices, including contacts with parents of students in the EEN programs (20%). (Respondent's Exhibit 1 & 2)

7. Both appellants worked under the general supervision of Frederick Timm, Director of Special Education for the DHSS Division of Corrections. Timm's office is located in Madison. He spent an average of one day a week at the Ethan Allen School and about one day a month at Lincoln Hills.

8. Both appellants provided clerical assistance to staffs of psychologists and teachers who conducted the programs at the two schools. The EEN

program at Ethan Allen School is nearly twice the size of the program at Lincoln Hills, but there are two Program Assistant 1 positions at Ethan Allen. Neither appellant had any supervisory responsibilities.

9. The Position Standards for Program Assistant 1 and 2 are as follows:

"PROGRAM ASSISTANT 1

(PR 2-06)

This is the work of moderate difficulty providing program support assistance to supervisory, professional or administrative staff. Positions allocated to this level serve as the principal support staff within a specific defined program or a significant segment of a program. Positions at this level are distinguished from the Clerical Assistant 2 level by their identified accountability for the implementation and consequences of program activities over which they have decision-making control. Therefore, although the actual tasks performed at this level may in many respects be similar to those performed at the Clerical Assistant 2 level, the greater variety, scope and complexity of the problem-solving, the greater independence of action, and the greater degree of personal or procedural control over the program activities differentiates the Program Assistant functions. The degree of programmatic accountability and involvement is measured on the basis of the size and scope of the area impacted by the decision and the consequence of error in making such decisions, which increases with each successive level in the Program Assistant series. Work is performed under general supervision.

PROGRAM ASSISTANT 2

(PR 2-07)

This is work of moderate difficulty providing program support assistance to supervisory, professional or administrative staff. Positions are allocated to this class on the basis of the degree of programmatic involvement, delegated authority to act on behalf of the program head, level and degree of independence exercised, and scope and impact of decisions involved. Positions allocated to this level are distinguished from the Program Assistant 1 level based on the following criteria: (1) the defined program area for which this level is accountable is greater in scope and complexity; (2) the impact of decisions made at this level is greater in terms of the scope of the policies and procedures that are affected; (3) the nature of the program area presents differing situations requiring a search for solutions from a variety of alternatives; and (4) the procedures and precedents which govern the program area are somewhat diversified rather than clearly established. Work is performed under general supervision."

10. The appellants do have the authority to exercise judgment and decision-making along program lines that are governed by a variety of complex regulations and statutes with minimum supervision.

11. The duties and responsibilities of appellants' positions are better described by the position standard for Program Assistant 2 than by the standard for Program Assistant 1.

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to Section 230.44(1)(a), Wis. Stats.

2. The appellants have the burden of proving that respondent's decision to reallocate the appellants' positions from Typist 3 to Program Assistant 1 was incorrect and that their positions should have been classified as Program Assistant 2.

3. The appellants have sustained that burden of proof.

4. Respondent's reallocation of the appellants' positions from Typist 3 to Program Assistant 1, effective August 26, 1979, was incorrect.

OPINION

The duties and responsibilities performed by the appellants are best described by the position standard for Program Assistant 2. The two appellants are responsible for all the record-keeping and management of their respective offices at the two institutions with only minimum supervision.

Jo Ann Myrick, Acting Assistant Director of Education for the Division of Corrections, testified that the appellants were responsible for completing

all of the paperwork and forms made necessary by federal and state laws which govern the education programs at the two institutions where they work. They are also responsible for keeping all the other members of the program staff up-to-date on day-to-day activities of the programs.

Nira Melzer-Busch, who formerly was employed as a psychologist at Ethan Allen School, testified that Brazeau's position "was a vital position" in the staff program. She testified that Brazeau had to use "considerable judgment" and had to be "sensitive" in her relationships with the parents of the students who were involved in the program.

Because the appellant's immediate supervisor was located many miles away in Madison, they had to make most of the day-to-day decisions on their own. Respondent's expert witness, Tony Milanowski, admitted that they had "a little more independence than most clerical positions."

For all of the above reasons, the Commission finds that these positions should more properly be classified as Program Assistant 2.

ORDER

The decision of the respondent, Division of Personnel, is rejected and the matter is remanded to the respondent for action in accordance with this decision.

Dated _____, 1981

STATE PERSONNEL COMMISSION

Gordon H. Brehm
Chairperson

Charlotte M. Higbee
Commissioner

Donald R. Murphy
Commissioner

GHB:mew

Parties:

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