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 *
 MARILYN J. VOLTZ, *
 *
 Appellant, *
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 v. *
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 Administrator, DIVISION OF *
 PERSONNEL, *
 *
 Respondent. *
 *
 Case No. 82-171-PC *
 *
 * * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal, pursuant to §230.44(1)(a), Wis. Stats., of a reallocation decision.

FINDINGS OF FACT

1. At all times relevant to this appeal, appellant has been employed in the classified civil service by the Department of Health and Social Services, Division of Corrections and has performed support duties for the Exceptional Educational Needs (EEN) program at Lincoln Hills School. This EEN program provides individualized special education programming for residents of the Lincoln Hills School.

2. Appellant's position was created in 1978 and was classified in the Typist series at that time. As a result of a 1979 clerical survey, appellant's position was reallocated to Program Assistant 1 (PA1) effective August 26, 1979.

3. The appellant appealed this reallocation to the Commission and the Commission decided that the appellant's position was more appropriately

classified at the PA2 level. (Brazeau & Johnson v. Division of Personnel,
Case No. 79-PC-CS-357 (9/4/81)).^{FN}

4. At the time of this decision by the Commission, appellant's position was part of respondent's Bureau of Program Resources, the supervisor of appellant's position was headquartered in Madison, and this supervisor spent approximately one day at Lincoln Hills School each month. In March of 1981, the supervision of appellant's position was transferred to Lincoln Hills School and a Teacher-Supervisor 1 position was created in the EEN program at Lincoln Hills School to supervise the EEN positions there, including appellant's.

5. On July 12, 1982, respondent reallocated appellant's position to PA1.

6. On August 10, 1982, appellant filed a timely appeal of such reallocation with the Commission.

7. Viewing the duties and responsibilities of appellant's position in the light most favorable to appellant, such duties and responsibilities are accurately described in a position description signed by appellant on January 22, 1981 (Appellant's Exhibit 7), and by a list of additional duties and responsibilities compiled by appellant on March 17, 1982 (Appellant's Exhibit 8), copies of which are attached hereto and incorporated by reference as if fully set forth as a part of this finding.

8. The class descriptions for the Program Assistant series include the following:

PROGRAM ASSISTANT 1

(PR2-06)

This is 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.

^{FN} Appellant's name was Marilyn Johnson at the time of this decision.

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 decisionmaking 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

(PR2-07)

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.

9. On the basis of a comparison of appellant's duties and responsibilities with the class specifications for the PA series and with the duties and responsibilities of other positions classified at the PA1 and PA2 levels indicates that the duties and responsibilities of appellant's position are more accurately described by the PA1 class specifications and appellant's position is more appropriately classified as a PA1.

CONCLUSIONS OF LAW

1. This appeal is properly before the Commission pursuant to §230.44(1)(a), Wis. Stats.
2. The appellant has the burden of proof.

3. The appellant has not sustained her burden of proof.

4. The respondent's decision reallocating appellant's position from PA2 to PA1 was not incorrect.

OPINION

In (Brazeau & Johnson v. Division of Personnel, Case No. 79-PC-CS-357 (9/4/81)), the Commission decided that appellant's position was more appropriately classified at the PA2 level due to the fact that "Because the appellants' 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.'" This degree of independence that appellants exercised in carrying out their duties appears to be the primary factor the Commission considered in ruling that appellants' positions were more appropriately classified at the PA2 level. Since the date of this decision, however, the supervision of appellant's position has changed from Madison-based supervision to on-site supervision. In addition, a review of the class specifications for the PA series indicates that level and degree of independence is only one factor to be considered in classifying a position within this series. A review of the other relevant factors which distinguish positions at the PA1 and PA2 levels indicates that:

1. The defined program area for which appellant's position is accountable involves only the procedural, not the substantive, aspects of the EEN program. The primary distinctions between the PA1, 2, and 3 classifications is in the level of services provided and the decisions rendered. Program Assistant 1 positions encompass a variety of clerical

and administrative activities which support a particular function.

Generally, there is a supervisory structure between the position and the professional. Decisions made at the PA1 classification level are of a clerical or administrative nature and are not substantive. (Clover v. Division of Personnel, Case Nos. 79-PC-CS-165, 153, 235, 891, 940, 934, 16, 17, 19 (1/27/82)). A review of the position descriptions for the PA2 positions which are a part of the record in this appeal indicates that such positions actually perform substantive program duties, e.g., investigate and respond to complaints about program (Goal A3, Respondent's Exhibit 20), represent the program director in his absence (Goal A4, Respondent's Exhibit 20), determine eligibility of applicants for program (Goal A6, Respondent's Exhibit 20), perform debt collection duties -- interview debtors, negotiate settlements, arrange payment schedules (Respondent's Exhibit 22), serve on program planning committees (Goals A1, D2 of Respondent's Exhibit 23), assume lead responsibility with Division Purchasing Unit, act as authorized Division Purchasing Agent in his/her absence (Goal D, Respondent's Exhibit 24). The primary duties of appellant's position relate only to the procedural aspects of the EEN program -- the development and maintenance of records and required data, production of typed copy, and general office management. The appellant is not directly involved with the substantive aspects of the EEN program -- the evaluation of, the design of education programs for, and the teaching of students with special educational needs. Appellant does not have delegated authority to act on behalf of any of the professionals or staff of the Lincoln Hills EEN program. Appellant's testimony indicates that the type of advice sought from appellant by EEN staff relates to procedures, e.g., requirements for parent/

guardian permission prior to evaluation, rather than to the substantive requirements for the evaluations, program designs, or teaching.

2. The impact of decisions made by appellant's position is very narrow. While appellant's decisions certainly affect the EEN program's paper flow, they do not directly affect the other major aspects and goals of the program. In addition, it should be noted that the EEN program is a relatively small program -- it is only a part of the educational program at Lincoln Hills School and serves an average of 50 students.

3. Appellant is not required to deal with differing situations requiring a search for solutions from a variety of alternatives. Appellant's duties are predominantly of a routine nature. Although appellant did develop a procedure or a set of procedures to handle the reporting and record-keeping requirements of the EEN program, the requirements themselves and many of the procedures were established by federal and state statute and rule. In addition, the development and revision of operating procedures affecting the immediate work unit is an example of work performed by a position at the PA1 level as provided in the class specifications for the PA series. The examples appellant cited in her testimony of situations requiring discretion on her part and a search for solutions from a variety of alternatives included (a) contact with parents or probation and parole agents to discuss attendance at multi-disciplinary team evaluations of children and (b) contact with probation and parole agents to request that they serve as a liaison with parents or as guardians for purposes of giving permission for evaluations. The requirement that parental/guardian permission be obtained prior to evaluation is established by statute. Although contacting parents or probation and parole agents may require tact and

sensitivity, it certainly does not present a situation requiring a search for solutions from a variety of alternatives.

4. The primary procedures and precedents which govern the Lincoln Hills EEN program are clearly established by federal and state statute and rule and by the Plan of Service, a detailed document outlining specific procedures to be followed in implementing the EEN program. Although appellant had input into the development of this Plan of Service, her input was limited to procedural matters, not substantive program matters and the final decisions on what would be included in the Plan were made by Fred Timm, the Special Education Director for the Division of Corrections. As stated above, although appellant did develop an office procedure or procedures for handling the reporting and record-keeping requirements for the Lincoln Hills EEN program, this system dealt only with the procedural, not the substantive aspects of the program; most of the procedures governing the EEN program were already established; and such duties fall within the duties of a PA1 position as provided in the class specifications for the PA series.

The duties and responsibilities of appellant's position appear to be comparable to the duties and responsibilities of the PA1 positions included as examples in the record of this appeal. In particular, the duties which appellant feels justify the classification of her position at the PA2 level are performed by these PA1 positions, e.g., development of office procedures (Goal G, Respondent's Exhibit 15; Goals B4, C, D4, F, Respondent's Exhibit 16; Goals B4, D, Respondent's Exhibit 19); composition of correspondence (Goal D, Respondent's Exhibit 15; Goals E8, E9, E11, Respondent's Exhibit 16; Goal C4, Respondent's Exhibit 17); communication/liaison (Goals A2, A6, Respondent's Exhibit 15; Goal D11, Respondent's Exhibit 16; Goal C,

Respondent's Exhibit 17; Goals A1, A11, Respondent's Exhibit 19); preparation of reports and statistical data (Goal F, Respondent's Exhibit 15; Goals A6, F5, Respondent's Exhibit 16; Goal B, Respondent's Exhibit 17; Goals A7, A8, A9, Respondent's Exhibit 19). In addition, the programs to which these positions are assigned appear to be comparable in size, scope, complexity, and, in some instances function to the Lincoln Hills EEN program, e.g., educational programming for the mentally ill patients attending Waterwood School at the Winnebago Mental Health Institute (Respondent's Exhibit 15); assessment and evaluation of adult inmates (Respondent's Exhibit 16); the Outward Bound Program (SPRITE) of the Division of Corrections (Respondent's Exhibit 17); the classification and transfer system for residents of adult and juvenile institutions (Respondent's Exhibit 18); and the education office of the Kettle Moraine Correctional Institution (Respondent's Exhibit 19).

Much argument in this appeal has focused on the changes in supervision of appellant's position. It is uncontroverted that both before and after the transfer of supervision from Madison to Lincoln Hills School, appellant has functioned relatively independently in carrying out the day-to-day duties of her position. However, although appellant's skills and experience make it possible for her to perform relatively independently, the Commission must look at the position, not the person, and the position is now provided with on-site supervision as opposed to the Madison-based supervision provided prior to March of 1981.

ORDER

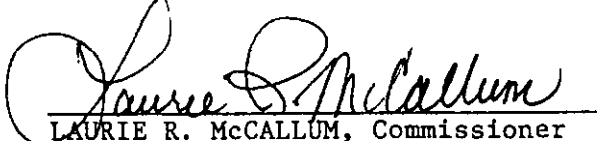
The decision of the respondent reallocating appellant's position from PA2 to PA1 is sustained and this appeal is dismissed.

Dated: January 18

STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

LRM:jmf
JPD05


LAURIE R. McCALLUM, Commissioner


DENNIS P. MCGILLIGAN, Commissioner

Parties:

Marilyn J. Voltz
Route 1, Box 12
Irma, WI 54442

Howard Fuller, Secretary
DER*
P. O. Box 7855
Madison, WI 53707

*Pursuant to the provisions of 1983 Wisconsin Act 27, published on July 1, 1983, the authority previously held by the Administrator, Division of Personnel over classification matters is now held by the Secretary, Department of Employment Relations.

POSITION DESCRIPTION

DER-PERS-10 (Rev. 1-78)
 State of Wisconsin
 Department of Employment Relations
 DIVISION OF PERSONNEL

RECEIVED

1 Position No. 303153	2 Cert/Reclass Request No.	3 Agency No. 435
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NOV 4 1982

4 NAME OF EMPLOYEE Marilyn J. Johnson	5 DEPARTMENT, UNIT, WORK ADDRESS Department of Health and Social Services Division of Corrections Lincoln Hills School Box 96 Irma, Wisconsin 54442
6 CLASSIFICATION TITLE OF POSITION Personnel Commission	8 NAME AND CLASS OF FORMER INCUMBENT None
7 CLASS TITLE OPTION (To be Filled Out By Personnel Office)	10 NAME AND CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES Rosemary Brazeau
9 AGENCY WORKING TITLE OF POSITION Program Assistant	12 FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW? August 14, 1978
11 NAME AND CLASS OF FIRST-LINE SUPERVISOR EEI Supervisor, LHS	
13 DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> IF YES, COMPLETE AND ATTACH A SUPERVISORY POSITION ANALYSIS FORM (DER-PERS-84)	

1 POSITION SUMMARY - PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

Performs a variety of complex operational and statistical duties necessary for the operation and efficiency of the Exceptional Education Needs Program at the juvenile level within the Division of Corrections. This position is accountable for the maintenance and direction of general office procedures as they relate to the efficient and appropriate support of the Exceptional Education Needs Program operation. (Continued on attached page)

2 DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION (Please see sample format and instructions on back of last page)

- GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance
- WORKER ACTIVITIES Under each goal, list the worker activities performed to meet that goal
- TIME %: Include for goals and major worker activities

(Continue on attached sheets)

TIME %	GOALS AND WORKER ACTIVITIES	EP
40%	A. Maintenance of individual, group, state, and federal records and records systems for all KEN students. A.1. Develops, maintains, and updates a complete, accurate statistical record listing of all students referred for exceptional educational needs. This includes all M-Teams, releases, and returnees on a daily basis and the monitoring of all essential and mandated reports as they relate to the M-Team process in the Division of Corrections under regulations of Chapter 115, Wisconsin Statutes and Public Law 94-142. A.2. Consolidates, separates, arranges, compiles, and transfers all data to a central form, diagramming the numerical data, summarizing and tabulating it (Continued on attached page)	3 3

3 SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION (See Instructions on Back of last page)

- a The supervision, direction, and review given to the work of this position is close limited general
- b. The statements and time estimates above and on attachments accurately describe the work assigned to the position (Please initial and date attachments)

Signature of first-line supervisor: James P. [Signature] Date: 11/10/81

4 EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position. (Please initial and date attachments)

Signature of employee: _____ Date: _____

5 Signature of Personnel Manager: _____

APPELLANT'S
 CREDIT # 7

EMPLOYEE

Position Summary Continued
Program Assistant 2, EEN

This position, under general supervision, shall be directly responsible to handle staff concerns related to any of the specific job descriptions listed below. Work sequences are completed with general supervision within established guidelines mandated by state and federal laws.

mjj
1-22-81

		EP	FP
	according to the instructions outlined by the Director of Special Education. Makes computations and calculations, with and without the use of machines, such as calculating percentages, ratios, or averages which involve basic mathematical techniques.		
A.3.	Furnishes the Director of Special Education with "end-of-month" statistics in the form of monthly reports on each category and case manager.	3	3
A.4.	Compiles and maintains an accurate and complete class list of all students in the EEN program, including assigning new students from a waiting list to fill vacancies of those released from the institution.	3	4
A.5.	Supervises and maintains an accurate filing system and card index to insure easy retrieval of material for each student.	3	4
A.6.	Revises and innovates new forms, when necessary, to facilitate records and tracking system to promote greater efficiency.	3	3
-30%	B. Typing of reports and correspondence.		
B.1.	Performs typing and editing services for professionals in the various EEN categories, including psychologists and diagnosticians in the ED, EMR, LD, SHL categories, typing handwritten and dictated reports with general supervision and assists them in other clerical duties as a paraprofessional.	3	3
B.2.	Takes and transcribes minutes of meetings, etc. and submits them for approval.	3	3
B.3.	Composes correspondence and types straight copy, statistical reports, and texts from oral or handwritten directives, using own form and wording.	2	3
-20%	C. Performance of office management function.		
C.1.	Sets up new referrals and sends out mailings to parents under regulations of Chapter 115, Wisconsin Statutes and Public Law 94-142, following up these procedures to make sure M-Teams and other mandated forms are completed within the 90-day required period. This includes scheduling M-Teams, IEP conferences, and other meetings as necessary and release of information to receiving institution when student is released or transferred.	3	4
C.2.	Supervises, manages, and directs incoming and outgoing mail and telephone calls with tact and consideration.	2	3
C.3.	Maintains good, knowledgeable working relations between regular school administration, Social Services, and various other agencies directly and indirectly connected with the institution.	3	3
C.4.	Insures proper budget requests for maintaining individual staff needs so that supplies are adequate without interruption of normal office operations.	3	3
C.5.	Manages and maintains materials and supplies inventory for the EEN professional staff.	3	3
10%	D. Monitor resident population movement in the LHS EEN school area in conjunction with and at the direction of the M-Team staff.		
D.1.	Monitor resident activity in the LHS EEN school area.	3	3
D.2.	Monitor, track, and provide information to LHS population control.	3	3
D.3.	Provide population count as needed to LHS population control. This includes signing and management of roll call slips when necessary.	2	3

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Personnel
Commission

3-17-82

Gene -

The position description signed in January of 1981 is no longer completely accurate. A couple of things were left out at that time, and some things have been added since. The following additions should be made:

1. When any EEN staff members have expenses, such as trips or off-grounds with students, I prepare the expense vouchers and see that they get routed to their supervisor for signatures. Knowledge of what can and cannot be charged is necessary as well as the format for completing the forms to the business office's satisfaction.
2. I prepare the monthly estimates and orders when teachers in our department wish to order materials. Again, it is up to me to know what is needed, how many copies, who gets them, due dates, etc.
3. In addition to the monthly statistics I compile to be sent to Fred Timm, there are weekly statistics gathered and sent to Jim Wickman for inclusion in his weekly report to Beverly Griggas.
4. It has become my duty to call the last schools new commitments attended prior to their arrival at LHS to determine whether or not they had been involved in special education. Some schools give complete, detailed reports over the phone, making it necessary to take shorthand notes to be transcribed later. In other cases, it is necessary to quote the section of Chapter 115 relating to release of information in order to get them to share their information with us. As a follow-up, when (and if) we receive signed parental permission to request records from other sources, I then send it to the schools from which we received information.
5. When students are enrolled in school upon their release from LHS, I prepare and send copies of their EEN material to the schools, keep records of where copies go, and notify parents by letter that this has been done.
6. It has also become part of my duties to fill in in the school office for the population monitor when one of the regular office staff is not in attendance.

Since these extra things have been added to my list of duties, I am requesting reclassification to a Program Assistant 3 at this time. The position standard, as well as the work examples given, for the Program Assistant 3 more accurately describes my job.

APPELLANT'S
EXHIBIT # 8

See below...

See Bonus Percentage of P.O. should be switched around."