

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 JAMES LA ROSE, *
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 Appellant, *
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 v. *
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 Administrator, DIVISION *
 OF PERSONNEL, *
 *
 Respondent. *
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 Case No. 82-205-PC *
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DECISION
 AND
 ORDER

A Proposed Decision and Order in the above matter was issued on October 31, 1983. The appellant filed written objections with the Commission on December 9, 1983. After having considered the appellant's arguments, the Commission adopts the Proposed Decision and Order, attached hereto, in its entirety and adds the following language to the Opinion section to further clarify its decision.

The appellant's primary argument is that the UW-Milwaukee constitutes a "large state department with extensive institutional facilities" as required in the Safety Coordinator 1 class description and that to conclude otherwise would be an arbitrary decision. In support of his argument, the appellant provides two documents which list the enrollment figures at the various campuses of the UW System. Neither of these documents (Appendices C and D to appellant's objections) were introduced as exhibits at the hearing in this matter and, therefore, they may not be considered by the Commission in reaching its decision. On the other hand, Finding of Fact #10 accurately reflects the record in this matter which showed that UW-Madison had 240 major buildings, 40,000 students, 900 acres and a \$400 million budget while UW-Milwaukee had just 38 major buildings, 24,000

students, 90 acres and a \$100 million budget. In addition, Madison's masters and doctoral programs are six and five times more numerous, respectively, than Milwaukee's masters and doctoral programs. These facts clearly show major discrepancies between the sizes of the two campuses in terms of criteria that are relevant to the work performed by a safety officer.

The fact that other classification series provide definitions of such terms as "large institutions" does not mean that the definitions can be fairly applied to the Safety Coordinator 1 classification. Duties assigned to a Payroll and Benefits Assistant position are completely different from those duties assigned to a Safety Coordinator position. The importance of the distinction in duties might be more readily apparent by referring to a hypothetical situation. Assume that the state civil service has a separate classification for Window Washer and that the classification defined "large institution" in terms of the number of different types of windows on the institution's building(s). Assume further that the Payroll and Benefits Assistant classification failed to define the term "large institution." It would make no sense for the Division of Personnel to apply the Window Washer definition of large institution in making classification decisions for persons in the Payroll and Benefits Assistant classification. It is not necessarily inconsistent for one institution or department to be considered "large" for purposes of one classification yet "medium" or even "small" in terms of another classification.

The appellant also argues that the reclassification of a co-employee to the Administrative Assistant 4 level somehow supports the conclusion that the appellant should be reclassified to the Safety Coordinator 1 level. As

noted in footnote two on page seven of the Proposed Decision, the co-employee, Mr. Houlihan, was reclassified from ESA2 to AA4. The AA4 definition provides, in part: "This is line supervisory and/or staff assistance work in a state agency or segment of a large state agency." (Emphasis added.) Again, there is no reasonable basis for concluding that because Mr. Houlihan works in a "segment of a large state agency" as provided in the AA4 class description that the appellant's safety and accident prevention program at UW-Milwaukee was a program "for a large state department with extensive institutional facilities" as provided in the SCI class description. Mr. Houlihan was apparently reclassified because he worked in a segment of a large state agency. There is nothing in the record to indicate whether UW-Milwaukee was considered to be a segment of the UW System or whether risk management was considered to be a segment of the UW-Milwaukee. The only person (a classification and compensation specialist at UW-Milwaukee) who testified regarding the Houlihan transaction, testified that she had only approved the Houlihan reclassification and that the actual analysis was performed by a subordinate. The specialist did not know how the analyst had reached his conclusion.

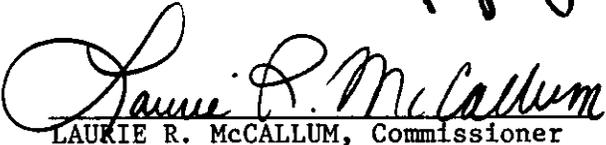
Of the various classifications identified with the issue for hearing in this matter only one specifically describes safety related duties. The record shows that the appellant does not meet the class definition for SCI. It is a reasonable classification technique to try to identify a position within relatively specific class series and, if the position does not fit, to then use the information already gained to classify the position within a more general series and at a level that is assigned an appropriate pay range. Because the appellant has failed to show that he meets the criteria

for the SCl classification at the 1-13 pay range, it is unreasonable to expect that his position should be classified in a more general series at the same (Administrative Assistant 4) or (Educational Services Assistant 3) level. The only remaining classification, AA3 is clearly broad enough to include the appellant's position and therefore must be considered as the "best fit" among the classifications at issue in this matter.

Therefore, the respondent's reclassification decision is affirmed and this appeal is dismissed.

Dated: December 22, 1983 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner


DENNIS P. MCGILLIGAN, Commissioner

KMS:ers

Parties

James La Rose
UW-Milwaukee
P.O. Box 413
Milwaukee, WI 53201

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.

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PROPOSED
 DECISION
 AND
 ORDER

This matter is before the Commission as an appeal from the denial of a reclassification request. The parties agreed to the following issue for hearing:

Whether the administrator's decision to deny the request for reclassification of appellant's position from Administrative Assistant 3 to Safety Coordinator 1 was correct.

Subissue: Whether appellant's position is most properly classified as Administrative Assistant 3 or 4, Safety Coordinator 1, or Educational Services Assistant 3.

After the hearing, the parties submitted briefs.

FINDINGS OF FACT

1. During all times relevant to this appeal, the appellant has been employed in the Department of Personnel and Human Resources, Division of Administrative Affairs in the University of Wisconsin-Milwaukee as Safety Officer. The appellant's position was supervised by Mr. Clyde Jaworski, Assistant Director of the Department. Mr. Jaworski's position oversaw the labor relations, safety, employe benefits, training and employe assistance responsibilities at the University of Wisconsin-Milwaukee. Mr. Jaworski's immediate supervisor was Ms. Barbara Fawcett, Director of the Department.

2. The appellant's duties and responsibilities were accurately set forth in his position description dated April 14, and July 13, 1981, a copy of which is attached hereto as if fully set forth as part of this finding.

3. Mr. Jaworski and Ms. Fawcett were accountable for the safety function at the University of Wisconsin-Milwaukee. The appellant initiated several of the programs undertaken by the safety office. However, Mr. Jaworski also assigned projects to the appellant. In addition, the appellant routinely copied Mr. Jaworski on his correspondence and informed Mr. Jaworski of important safety problems as they arose. Where the appellant developed recommendations after investigating a safety problem, he would submit his recommendations to the department head of the specific departments involved as well as copying both Mr. Jaworski and the University of Wisconsin-Milwaukee business office.

4. The University of Wisconsin-Milwaukee assigned certain safety responsibilities to various other individuals as well as to safety committees. The Vice-Chancellor was assigned responsibility for ensuring compliance with state and federal requirements regarding biological hazards, environmental protection, hazardous waste disposal and radiation safety. Mr. Ralph Grunewald, an Associate Professor of Botany, served as Radiation Safety Officer and also chaired the Institutional Safety and Hazards Committee which was assigned the general responsibility for advising and setting policy regarding hazardous waste disposal, radiation safety, recombinant DNA and biological and chemical safety.

5. The Administrative Assistant 3 (AA3) classification is assigned to pay range 1-11, both the AA4 and Safety Coordinator 1 (SC1) classifications are in pay range 1-13 and Educational Services Assistant 3 (ESA3) is in pay

range 1-14. The class descriptions for the AAI and SCI classification provide, in part, as follows:

ADMINISTRATIVE ASSISTANT 3

Definition:

Under general direction to do administrative work of more than ordinary difficulty and responsibility requiring the exercise of a considerable amount of individual initiative and independent judgment in directing the business management of a division engaged in a comprehensive non-professional program or activity; and to perform related work as required.

SAFETY COORDINATOR 1

Class Description

Definition:

This is administrative and technical work in the development and coordination of a comprehensive safety and accident prevention program. An employe in this class plans, promotes, coordinates and conducts a safety and accident prevention program for a large state department with extensive institutional facilities. Work includes advising all levels of management in the interpretation and implementation of the safety program. Work is performed with considerable independence of judgment consistent with established safety practices and procedures, and departmental policies.

Examples of Work Performed:

Plans, coordinates and conducts a comprehensive safety and accident prevention program designed to reduce frequency and severity of departmental accident rates.

Stimulates the implementation of safety rules and regulations through conferences, lectures and publications.

Establishes uniform procedures for reporting, recording and analyzing frequency or severity rates for accidents.

Performs safety education work by promoting accident prevention and safety, and training in the effective use of safety devices and equipment.

Represents the department at meetings and conferences on safety.
Performs related work as required.

6. The Safety Coordinator 2 classification is for positions performing "a highly responsible administrative work coordinating a comprehensive state-wide safety program . . .for all state departments, agencies and commissions."

7. The only position in state service classified at the Safety Coordinator 1 level is held by Mr. Boleslaw Uminski, at the University of Wisconsin-Madison. Mr. Uminski's 1976 Position Description summarizes his position as follows:

Plans, promotes, coordinates and conducts safety and accident prevention programs for the University of Wisconsin-Madison campus. Work includes advising all levels of management in the interpretation and implementation of the safety program. Work is performed with considerable judgement consistent with established safety practices and procedures, and departmental policies.

The safety office at the University of Wisconsin-Madison is staffed by approximately 45 positions and is headed by a Safety Director who is classified at the Administrative Officer 2 level. Mr. Uminski's supervisor is the Safety Director. Mr. Uminski, in turn, supervises four employees, including a Safety Specialist and several Maintenance Mechanics. The safety office is divided into five sections: Office, Health Physics, Hazardous Waste, General Safety and Lifesaving Station. Mr. Uminski is employed in the General Safety section. The University of Wisconsin-Madison also has a Radiation Safety Officer and utilizes several committees that are comparable to the safety committees utilized on the Milwaukee campus.

8. Mr. Uminski and the appellant had approximately the same level of programmatic responsibility, excluding the increased responsibilities associated with the size of the University of Wisconsin-Madison campus.

9. The term "large state department with extensive institutional facilities" is not defined within the Safety Coordinator 1 class description.

10. The University of Wisconsin-Milwaukee campus is substantially smaller than the University of Wisconsin-Madison campus, in terms of

certain factors that are relevant to the Safety Coordinator position. The Madison campus has approximately six times as many major buildings, twice as many students, five times the number of doctoral programs, six times the number of masters programs, ten times the number of acres, and has a budget that is roughly four times the size of the University of Wisconsin-Milwaukee budget. The "level of activity" at the Madison campus is approximately four times that at the Milwaukee campus.

11. The University of Wisconsin-Milwaukee campus does not constitute a "large state department with extensive institutional facilities" as that phrase is utilized in the Safety Coordinator 1 definition.

12. The appellant's position was properly classified at the Administrative Assistant 3 level.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(a), Wis. Stats. (1981-82).

2. The appellant has the burden of proving that the respondent's decision to deny the reclassification of the appellant's position from Administrative Assistant 3 to Safety Coordinator 1 was incorrect and that his position is more properly classified at the AA4, Safety Coordinator 1 or Educational Services Assistant 3 level.

3. The appellant has failed to meet that burden of proof.

4. The respondent's decision to deny appellant's reclassification request was correct.

OPINION

This case really comes down to the meaning of the phrase "large state department with extensive institutional facilities," as set out in the Safety Coordinator 1 class definition. For the most part, the appellant's

duties were well described by the SC 1 definition and work examples. The appellant "planned, coordinated and conducted " the comprehensive safety and accident prevention program for the University of Wisconsin-Milwaukee, conducted investigations of accidents, promoted safety and provided safety training to campus employes. He performed his work with considerable independence of judgment consistent with established safety practices and procedures and departmental policies.¹

While the appellant satisfies the bulk of the requirements for the SC1 classification, the University of Wisconsin-Milwaukee fails to meet the size requirements. Although the term "large state department with

¹The appellant focused much of his case on the argument that he had "programmatic responsibility" for the University of Wisconsin-Milwaukee safety program. The evidence presented at hearing supports the conclusion that although the appellant did initiate at least some of the safety programs, most of the policy making responsibility rested with committees or with other individuals and that the appellant's supervisors were held accountable for campus safety. The appellant carried out the administrative and technical work in respect to the safety programs. Even if the appellant could have shown that he held all responsibilities with respect to campus safety, he would not have properly been classified at the SC1, AA4 or ESA3 levels. Testimony suggested that had the appellant actually possessed such responsibility, he should have been in the unclassified service.

extensive institutional facilities" is not defined,² it still must be applied in a manner that is consistent with the SC2 definition which encompasses an employe whose comprehensive accident prevention and safety program covers "all state departments, agencies and commissions" on a statewide basis. The University of Wisconsin-Madison, as indicated by the allocation of Mr. Uminski's position, fits the SC1 rather than the SC2 size requirement. The University of Wisconsin-Milwaukee campus is, in turn, smaller than the Madison campus by a factor between 2 and 10, depending on the index relied upon.

The vast disparity in size between the two institutions indicates that the appellant's position should be classified at a lower level than Mr. Uminski's position. Because there is no level in the SC series lower than Mr. Uminski's classification, it is necessary to look to a more general series. The Administrative Assistant series is frequently used to fill gaps in more specific classification series. Because the appellant does

²The appellant argued that definitions from other classifications should be relied upon in determining what meets the size requirements of the SC1 classification. For example, the Payroll and Benefits Assistant series defines "large institutions" in terms of the number of full-time positions and the number of shifts and defines "major agency" in terms of total employes and its structural aspects. There is nothing in the record to indicate why these definitions of different terms should be applied to interpret the SC1 standard. The appellant also argued that the recent reclassification of University of Wisconsin-Milwaukee's risk manager, Mr. Houlihan, from ESA2 to AA4 supported the appellant's own reclassification. The AA4 definition includes positions providing "line supervision, and/or staff assistance work in a state agency or segment of a large state agency." The term "large state agency" is not defined nor is there any indication on the record as to the factors that were considered in reaching a conclusion as to the agency size for granting Mr. Houlihan's reclassification.

not meet the SC1 definition pay range 1-13, his position should not be classified at the AA4 level which is in the same pay range. The ESA3 classification, which does not specifically identify safety positions, is a pay range above the SC1 level rather than below it. The Administrative Assistant 3 level in pay range 1-12, although not specifically identifying safety positions, includes work of more than ordinary difficulty and responsibilities requiring the exercise of a considerable amount of individual initiative and independent judgment. Work at the AA3 level is performed under general direction. The AA3 definition appears to provide the "best fit" for the appellant's position in light of the conclusion that the SC1 does not meet the requirements.

The appellant has failed to show that respondent's decision was incorrect and the Commission concludes that the appellant's position was properly classified at the AA3 level.

ORDER

The respondent's decision denying the appellant's reclassification request is affirmed and the appeal is dismissed.

Dated: _____, 1983 STATE PERSONNEL COMMISSION

DONALD R. MURPHY, Chairperson

LAURIE R. McCALLUM, Commissioner

KMS:jab

DENNIS P. McGILLIGAN, Commissioner

Parties:

James La Rose
UW-Milwaukee,
P.O. Box 413
Milwaukee, WI 53201

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

1. Position No.	2. Cert/Reclass Request No.	3. Agency No.
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4. NAME OF EMPLOYEE: James A. LaRose

5. DEPARTMENT, UNIT, WORK ADDRESS: University of Wisconsin-Milwaukee
Division of Administrative Affairs
Department of Personnel and Human Resources

6. CLASSIFICATION TITLE OF POSITION: Administrative Assistant 3

8. NAME AND CLASS OF FORMER INCUMBENT

7. CLASS TITLE OPTION (To be Filled Out By Personnel Office)

9. AGENCY WORKING TITLE OF POSITION: University Safety Officer

10. NAME AND CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR: Clyde A. Jaworski, Assistant Director
Personnel and Human Resources

12. FROM APPROXIMATELY WHAT DATE HAS ~~THE EMPLOYEE~~ PERFORMED THE WORK DESCRIBED BELOW?
31 Months

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes No FEB 14 1989 COMPLETE

AND ATTACH A SUPERVISORY POSITION ANALYSIS FORM (DER-PERS-84).

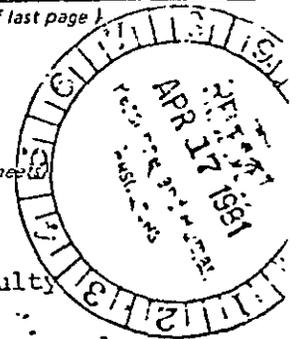
4. POSITION SUMMARY - PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION

This position is administrative and technical in nature. This position Personnel Commission advises and recommends courses of action to the administration on safety matters, performs accident analysis and develops meaningful data, conducts safety education and training activities, represents the University on safety matters and strives to continue to minimize hazards within our environment.

15. 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.

TIME %	GOALS AND WORKER ACTIVITIES
30%	A. Consult With and Advise the Administration on Safety Matters
	A-1 Consults with and advises the University administration, faculty and employes on safety concerns.
	A-2 Identifies and recommends solutions to correct unsafe practices and conditions that are consistent with codes and good safety practices.
	A-3 Interprets codes.
	A-4 Coordinates and advises with departments in correcting safety deficiencies.
	A-5 Develops and recommends administrative controls.
	A-6 Coordinates between administration and other federal, state and local agencies
	A-7 Locates sources of funding.
	A-8 Serves on safety committees.



16. 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 ~~unlimited~~

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: [Signature] Date: 4/14/81

17. 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: [Signature] Date: 4/14/81

Signature of Personnel Manager: [Signature] Date: 7/13/81

Respondent's Exhibit # 29

A. Consult With and Advise the Administration on Safety Matters

- A-9 Relates to the news media on safety issues.
- A-10 Relates to federal, state, local and other agencies concerned with University safety posture.

5% B. Accident Prevention

- B-1 Investigates accidents and develops solutions to prevent, reduce injuries, losses and costs.
- B-2 Develops and initiates financial and accident profile reports for the administration and management.
- B-3 Develops recommendations for the University Administration to reduce personal injuries, losses and costs.

5% C. Identifies Hazardous Conditions

- C-1 Conducts tests with appropriate test equipment to identify hazardous conditions in University buildings and develops solutions to correct problems.
- C-2 Conducts visual inspections of buildings to identify hazardous conditions and develops solutions to correct problems.

5% D. Comprehensive Safety Training

- D-1 Identifies safety training needs.
- D-2 Develops and teaches safety training programs and seminars.
- D-3 Develops and coordinates safety training seminars and programs.

15% E. Comprehensive Promotion of Employee Safety

- E-1 Develops and conducts the safety orientation program for new employes.
- E-2 Develops and implements safety poster program.
- E-3 Publishes safety bulletins.
- E-4 Writes safety related articles for various UWM publications.
- E-5 Develops and directs emergency building evacuation procedures and drills.
- E-6 Develops and administers the medical surveillance program.
- E-7 Administers the eye and foot protection program.
- E-8 Conducts and coordinates inspections.