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KATHY DAYTON,

Appellant,

v.

Secretary, DEPARTMENT OF
HEALTH AND SOCIAL SERVICES,
and Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondents.

Case No. 85-0021-PC

* * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal from respondent's decision denying the reclassification of the appellant's position from Librarian 1 to Librarian 2. At the prehearing conference held on March 20, 1985, before Kurt M. Stege, Hearing Examiner, the parties agreed to the following issue for hearing:

Whether the respondent's decision denying the reclassification of the appellant's position from Librarian 1 (PR 13-02) to Librarian 2 (PR 13-04) was correct.

Hearing in the matter was held on January 15 and December 12, 1986, before Dennis P. McGilligan, Chairperson. The parties completed their briefing schedule on March 25, 1987.

FINDINGS OF FACT

1. At all times material herein, the appellant, Katherine Dayton, has been employed in the classified civil service by the Department of Health and Social Services at Waupun Correctional Institution, Waupun, Wisconsin.
2. Appellant was hired to be the librarian for the Law Library at the Institution on January 22, 1984.

3. Appellant requested reclassification from Librarian 1 to Librarian 2 in July, 1984; Glenn R. Weeks, the Institution Personnel Manager, audited her position and recommended approval of her reclassification request in a memo dated October 3, 1984 to Warren Young, Superintendent; in said memo Weeks stated that appellant "has been performing at the Librarian 2 level for six months and should be reclassified to Librarian 2;" the reclassification request was denied by the department on January 25, 1985, whereupon appellant filed a timely appeal of this denial with the Commission by letter dated February 6, 1985.

4. The duties and responsibilities of appellant's position are accurately described in the position description signed by the appellant on October 3, 1984, a copy of which is attached hereto and incorporated by reference as if fully set forth as a part of this finding. (see Appellant's Exhibit #2 attached)

5. The position standard for the Librarian classification, dated December, 1980, provides in pertinent part as follows:

I. INTRODUCTION

A. Purpose of Position Standard

This position standard is intended to be used for making classification decisions relative to present and future positions performing professional librarian duties. Because of the variety of ways in which positions can be structured in this occupation area, this position standard may not specifically identify every eventuality of combination of duties and responsibilities which may exist in the future.

B. Inclusions

This position standard describes service oriented positions in a library which are performing coordinative and analytical work which is considered to be "professional" in nature as defined by s.111.81(11). This currently includes work that (a) is predominantly intellectual and varied rather than routine mental, manual, mechanical or physical work; (b) involves the

consistent exercise of discretion and judgment; (c) is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (d) frequently requires knowledge of an advanced type.

Positions will function in a variety of libraries such as agency libraries (e.g., DILHR, Justice), and reference-research libraries (e.g. DPI-Reference and Loan, Historical Society).

Positions function a majority of the time as a specialist or generalist in a library.

G. Classification Factors

Because of the variety of library programs and their varying degrees of complexity, individual position allocations have and will be based upon general classification factors such as those listed below:

1. Organizational status as it relates to the level of responsibility assigned and accountability assumed for program policy development and/or implementation functions;
2. Availability and applicability of established guidelines, procedures, precedents, and legal interpretations;
3. Potential impact of policy and/or program decisions on the public, patrons, other governmental entities, and the state's resources;
4. Degree of internal and external coordination required to accomplish objectives;
5. Availability of other nonsubordinate staff whose authority it is to make the most difficult and unprecedented program decisions or interpretations; and
6. Scope, variety and complexity of decisions considering the number and nature of the variables [sic] that are relevant to the specific decision.

II. CLASS DESCRIPTIONS

The following class descriptions define the basic class concept for each classification level and use specific position allocations to elaborate on each concept. To develop a full understanding of these class descriptions, they should be used in conjunction with the definitions provided under Section I.F. As previously mentioned, several different areas of specialization and position categories exist within this occupational area and it is recognized that this position standard cannot describe every eventuality or combination of duties and responsibilities. Therefore, these class descriptions are also intended to be

used as a framework within which positions not specifically defined can be equitably allocated on class factor comparison basis with other positions which have been specifically allocated.

Librarian 1

This is professional library work in a state agency or state institution library. Positions allocated to this level function independently either as 1) a specialist, responsible for performing a wide range of library functions such as reference, collection development or cataloging within a specialized program or subject area; or 2) a generalist, performing a variety of professional library functions such as reference, circulation, and original cataloging. Positions may in addition function as leadworkers of lower level personnel. Positions allocated to this level function under limited supervision received from higher level professional library staff.

Representative Positions

Specialist - Health & Social Services - Central Wisconsin Center

Identifies and selects a variety of material dealing in one of a variety of different mental health subjects to be used by parents and community groups; produces materials in a particular area, including writing scripts, processing video tapes, and developing circular; classifying and cataloging a variety of materials; and providing reference services to community persons and agencies.

Generalist-Department of Justice

Responsible to a Librarian 2 - provides reference and research services; trains department staff in the use of an automated legal retrieval system; develops a documents collection; checks in new library materials; and prepares pamphlets and periodicals for binding.

Librarian 2

This is professional library work in a state agency or institution. Positions allocated to this level function either as 1) the chief librarian in a state agency responsible for all library operations including cataloging, circulation, acquisitions, reference, and in addition performs a variety of administrative tasks associated with planning, organizing, and directing all department library operations; 2) a subject matter specialist performing a wide range of library functions in addition to establishing policies and procedures affecting their specialty area, which transcends departmental boundaries. Positions may in addition function as leadworkers of lower level personnel. Positions at this level function under the general supervision of administrative staff or higher level supervisory librarians. It

should also be noted that positions of a similar kind, level, scope, and complexity will also be allocated to this classification.

Representative Positions

Department of Industry, Labor and Human Relations - Chief Librarian

Coordinates acquisitions and circulation activities; researches reference documents to answer informational and reference questions; provides inter-library loan activities; evaluates and selecting new materials; manages funds for the Government Printing Office deposit account; establishes library policies and procedures; and plans and develops library references.

Department of Natural Resources - Chief Librarian

Develops library policies and procedures; coordinates library services between outlying districts; prepares the library budget; coordinates library reference services; and catalogs and classified library materials.

H&SS - Mendota - Specialist

Audio-Visual (AV) provides research and reference services to institution staff and members of the general public; provides consultation to community mental health centers on referral services, equipment, collection development, etc.; develops budget requests for AV materials; and selects and catalogs AV materials.

Legislative Reference Bureau - Specialist

Assembles, organizes and classifies newspaper and legislative magazine clippings on a variety of subject area; recatalogs committee hearings, reports and bills; and updates the periodical and series collection.

6. The allocation pattern developed for librarian positions in DHSS provides, in pertinent part, as follows:

LIBRARIAN 1

Description:

Positions allocated to this classification level function as a subject or program specialist or a generalist performing a variety of professional library functions. Work is performed under limited supervision of a higher level library professional. Positions typically allocated to this level work in a state institution library and are responsible for identification, selection and production of

materials; original classification and cataloging; and providing reference services. Representative Position*

Librarian 1 - Central Wisconsin Center.

LIBRARIAN 2

Description:

Positions allocated to this classification level function as the Chief Librarian in a state agency or institution with responsibility for administration of all library services; or as a subject matter specialist providing consultation and services in a specialty area which includes performing administrative tasks relating to the specialty area which transcend departmental boundaries. Work is performed under general supervision of administrative staff or a Librarian Supervisor 2. Positions typically allocated to this level have sole responsibility for directing an agency or institution library program which may include a centralized agency library, staff library, patient/resident library, law library and/or a media center. Duties involve development and implementation of policies and procedures, acquisition of materials, maintaining a catalog and classification system, providing reference and loan and research services, developing and monitoring the library budget, instructing patrons in use of the library, and supervising/directing the work of staff/resident library clerks. Other positions typically allocated to this classification level have specialized program or subject matter responsibilities such as administering resident/patient and school library programs or providing comprehensive audio-visual services. Duties involve developing and implementing library programs to meet individual and group needs of residents/patients; selecting materials; cataloging and/or classification; providing research and reference services to staff and public; developing and monitoring budget; and providing consultation concerning program planning services and audio-visual equipment.

Representative Position*

Librarian 2 - Oakhill Correctional Institution and Department Librarian DHSS.

7. Originally, the law library collection at Waupun Correctional Institution was, like law library collections in other correctional institutions, considered a part of the institution library and was under the supervision of the institution's librarian, at one time Sherman Van Drisse (Teacher 6) and, in 1982, Nevin Webster (Librarian 2).

8. On January 31, 1983, there was a riot in the school building at the Waupun Correctional Institution. It was then determined that the law library should have a separate position supervising its use. DHSS perceived this librarian position "functioning as the autonomous head of the law library under the direction of the teacher-supervisor II."

9. In the summer of 1983, a Librarian position was established at Waupun to supervise the use of the law library.

10. The justification for the Librarian 1 position included:

1. A Librarian 1 would be responsible for an aspect of our educational program, much like a recreation leader is responsible for a part of the program.
2. This librarian will meet with 24 inmates per hour, 8 hours per day, or a total of 192 inmate contact periods per work day. Working closely with each inmate, this position will help each inmate pursue legal research, which includes availing books daily to men in segregated status.
3. These tasks are mandated by the United States Supreme Court and we must guarantee all inmates, segregated and general population, equal treatment under the Law.
4. Our present librarian can only offer his services adequately in our inmate recreational and school library.

11. As noted previously, the appellant was hired on January 22, 1984, as a Librarian 1 to supervise the use of the law library by the inmates at Waupun. She has continued in this position at all times material herein.

12. It was anticipated by the Institution and by Dayton at the time of hire that she would be developing standards for law libraries in correctional institutions throughout the state. However, although appellant is sometimes called upon for advice and counsel by staff, librarians in other correctional institutions, and by legal counsel in DOC she has not developed the aforesaid statewide standards. Dayton was also told that she would have to determine the needs of inmates and develop programs to meet

them. Dayton was further responsible for the development of guidelines and procedures for program implementation. Dayton was told that she would report to the Education Director, George Smullen, within the management framework (strong table of organization) of the Institution.

13. In a memo dated March 2, 1984, George Smullen set forth some of the programs he anticipated needed to be initiated as follows:

1. Law books to be catalogued, classified, and logically arranged.
2. Initiate an orientation program.
3. Written policy and procedures for Law Library usage and service offered.
4. Implementing Law Library instruction programs.
5. Implementing self-help Law Library usage programs.
6. Adopting a Law Library advisory committee of staff, inmates, and outside consultants.
7. Initiate double-period (90 minute) usage plan.

Many of these duties are explicitly set forth in appellant's position description dated February 2, 1984.

14. Appellant did initiate many of the programs discussed in Smullen's memo noted above. Appellant also initiated programs that were not discussed in this memo such as photocopying, provision of law books to inmates in segregation, assistance on research and references, Notary Public services, Law Library personnel policies relating to overtime pay, absences, development of position descriptions and work rules and the addition of a third full-time law clerk for the Law Library. These duties are also set forth in the aforesaid Dayton memo.

15. Appellant began planning for the above-mentioned programs as early as two weeks after she started as a Librarian I at the Institution.

16. As noted above, respondent denied appellant's reclassification request. Respondent felt appellant's duties compared best to the Librarian 1-specialist level based "on comparison of the scope, complexity, knowledge and skills, personal contacts, discretion and accountability of the position." In this regard respondent noted that appellant was a "specialist" responsible "for coordinating all law library services for Waupun Correctional Institution as assigned by the Assistant Education Director." (emphasis supplied) Respondent also noted that appellant was responsible for performing a wide range of library functions in coordinating all law library services but that a Librarian 2 position was responsible for coordinating all the library services at Waupun including direction over some of the law library services. (emphasis supplied) Respondent concluded that appellant did not meet the Librarian 2 classification specification as a subject matter specialist because Dayton's specialty area did not transcend departmental boundaries.

17. From a classification standpoint, the appellant's position is at a lower level than the following positions which are classified as Librarian 2:

a. Margaret Grinnel occupies a DHSS position with this classification at the Mendota Mental Health Institute in Madison, Wisconsin.

Her PD summarizes her job duties and responsibilities as follows:

JOB SUMMARY: Under the general direction of the Librarian Supervisor 3, directs the highly specialized consultive, advisory and reference services to MMHI staff and statewide community agency users and individuals. Works independently to administer, organize and supervise the audiovisual program and its services including the mental health audiovisual collection unique in Wisconsin. Provides consultation statewide on developing mental health collections; recommends current available programs and collects and provides consultation or recommendations on national sources of specialized mental health information for referral purposes. To maintain this collection of mental health materials including audiovisual and government documents, establishes coordinates and implements a cataloging system which is highly

specialized to mental health language and concepts but which integrates with Library of Congress classification.

According to her PD Grinnel spends 50% of her time in the administration of reference services to MMHI staff and statewide community agency users with special emphasis on audiovisual reference services in the mental health area. Grinnel also spends 25% of her time in the "administration and organization of statewide audiovisual services in mental health."

b. Marijane Reich occupies a DHSS position with this classification also at the Mendota Mental Health Institute. According to her PD, Reich has the following responsibilities:

JOB SUMMARY: Under general direction of LMC Director, plans and administers library services for patients and the MMHI school programs for pre-school, elementary, high school and adult levels; plans and implements policies and procedures; selects, catalogs and processes materials to develop and maintain collections adequate to meet the treatment, rehabilitation, educational and recreational needs of patients within fiscal limits in cooperation with clinical programs and the school curriculum; provides reference services for patients and also to assist staff in their work with patients; and provides consultation and reference services to community agencies regarding materials for patients in community programs.

Also according to her PD, Reich spends 20% of her time in the administration of the Patient/School Library programs, 50% in the provision of Patient/School Library services including reference and special programs, 22% in the development and maintenance of collections of said programs and 8% in the performance of other activities for the functioning of the Patient Library.

18. From a classification standpoint, the appellant's position is at the same level as the following Librarian 1 position:

a. Glen Singer provides certain library services in the operation of the Resource Center at Oakhill Correctional Institution.

Singer administers a collection of audiovisual equipment and recommends purchase of additional aids; maintains library catalogues and classification systems; compiles and coordinates indexes and bibliographies; supervises operation of law library and trains law clerks. Singer also spends a great deal of his time in the provision of direct library services to residents and staff; in the supervising of the Computer Literacy Center and in the performance of other job related activities.

19. The duties and responsibilities of appellant's position are more accurately described by the class specifications for a Librarian 1 and appellant's position is more appropriately classified as Librarian 1.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Stats.

2. The appellant has the burden of proof of establishing that the respondent's decision denying reclassification of her position was incorrect.

3. The appellant has not sustained her burden.

4. The respondent's decision to deny the request for reclassification of the appellant's position was not incorrect.

DECISION

The question before the Commission is whether the appellant's position should be classified as a Librarian 1 or Librarian 2. In order for appellant to prevail, she must satisfy her burden of proving that her position meets the Librarian 2 definition and is more properly classified in that classification.

The class specifications noted above describe the difference between the Librarian 1 and 2 levels. The parties are in agreement that appellant performs a specialist function with respect to her law library duties and responsibilities. The only issue remaining is whether appellant is a specialist at the Librarian 1 or 2 level.

The class specifications state that the Librarian 1 and 2 specialists both perform a wide range of library functions within a specialized program or subject area; however, if the specialist has a specialty area which transcends departmental boundaries said librarian is at the Librarian 2 level. Specialists at the Librarian 2 level also differ from their counterparts at the 1 level in that they are responsible for establishing policies and procedures affecting their specialty area in addition to performing their library functions. Finally, the class specifications indicate Librarian 1's function under limited supervision received from higher level professional library staff while positions allocated to the Librarian 2 level function under the general supervision of administrative staff or higher level supervisory librarians.

Appellant argues that her specialty area transcends departmental boundaries. Respondent takes the opposite position. The class specifications do not specifically define what is meant by the phrase "transcends departmental boundaries." In practice, the word "departmental" as used in this phrase means the same as the agency or institution which houses the library as well as DHSS. The record indicates that appellant has a minimum amount of contact with outside agencies or institutions.^{FN} However, this

^{FN}For example, three requests from inmates housed in Minnesota prisons for legal materials prior to her reclass request, a request for legal materials from a prisoner in Marion, Illinois and several requests for library materials from the CAMP system.

is not a major function of her position and her actions do not have a major impact on agencies or institutions outside of the law library at Waupun. Nor do the services, including consultation, that appellant provides to community persons and agencies warrant classification at the higher level. In this regard the record indicates that both Librarian 1's and 2's provide library services, including consultation, to community persons. There is no persuasive evidence in the record that appellant's responsibilities in this area are major or complex enough to warrant the higher classification. Based on all of the above, the Commission finds that appellant's duties do not "transcend departmental boundaries" as that phrase is used in the Librarian 2 class specifications.

Another difference between the Librarian 1 specialist and the Librarian 2 specialist noted above is whether or not the librarian is also responsible for developing policies and procedures and performing administrative tasks within their specialized program. The parties are not in dispute over the fact that appellant has these type of responsibilities and duties with respect to the law library at Waupun.

A question remains as to whether appellant's supervision comes from a higher level library professional or administrative staff or a Librarian Supervisor. The evidence is mixed on this point. Nevin Webster's PD (Respondent's Exhibit 4) states that he is responsible for the "Coordination of all library services for Waupun Correctional Institution inmates as assigned by the Assistant Education Director." This was further clarified by his PD to include the law library at Waupun. John Kovacik, the Personnel Specialist with DHSS, BPER who handled appellant's reclassification request, was informed by James Cosgrove, the Assistant Education Director at Waupun and the supervisor over Webster and Dayton, that Webster is the

Chief Librarian at Waupun and has supervisory responsibility over appellant. Webster is classified as a Librarian 2.

Dayton's PD, on the other hand, indicates that Cosgrove (a Teacher Supervisor 2) is appellant's first-line supervisor and that Nevin Webster performs similar duties. George Smullen testified for appellant that Webster did not have any supervisory authority over Dayton. The record also indicates that respondent intended to have this position function in an autonomous manner.

Interwined in this issue of who supervises appellant is the question of whether said supervision is limited or general. Appellant claims that she worked subject to the general supervision of either the Assistant Education Director or Education Director for the Institution and within the management framework of the Institution. However, the record indicates that appellant works in a very structured organization with approval for her program initiatives coming from George Smullen, James Cosgrove and others at the institution. Various people, including Smullen, also shared in the development of these programs. Therefore, while it is possible to conclude from the record that appellant worked independently in her position the evidence does not establish that appellant worked under general versus limited (or more close) supervision.

As noted above the main difference between a Librarian 1 specialist and a Librarian 2 specialist is whether their specialized program "transcends departmental boundaries." The Commission feels that appellant's duties do not transcend those boundaries as that phrase is used in the Librarian 2 class specification. Nor has the appellant proven that she satisfies the other differences listed for a Librarian 1 and 2 so as to warrant classification at the higher level.

A conclusion that appellant's position is better classified at the Librarian 1 level is generally supported by a comparison to those positions cited by the parties in support of their position.

The record is clear that Margaret Grinnel occupies a position appropriately classified at a higher level (Librarian 2) than appellant's position. In this regard the record indicates that a major focus of Grinnel's position is to provide library services on mental health including consultation and reference, on a statewide basis to various community agencies, organizations, and/or individuals. In comparison, appellant spends a de minimis amount of time on these type of duties.

Appellant compares more favorably with Marijane Reich who is a Librarian 2 at Mendota Mental Health Institute. In some respects appellant's position is similar to Reich's. For example, both positions are responsible for administering a specialized program; both are responsible for planning and developing policies and procedures for their specialized libraries and both have some responsibilities which transcend the boundaries "of their respective institution." However, it appears that Reich's duties are broader in "kind, level, scope and complexity" than appellant's and that her responsibilities "transcend departmental boundaries" in a larger fashion than Dayton.

From a classification standpoint, appellant's position compares favorably with Glenn Singer's Librarian 1 position at Oakhill Correctional Institution. Singer provides certain library services in the operation of the Institution Resource Center including supervision of the Law Library and training of the resident law clerks. Singer's Law Library responsibilities do not transcend departmental boundaries.

Appellant argues that the instant classification decision must also take into account the general classification factors found in the Position Standard. Said classification factors are found on page 5 of the class specs (Joint Exhibit 1). The paragraph following "Class Descriptions" in the class specs states in part: "these class descriptions are also intended to be used as a framework within which positions not specifically defined can be equitably allocated on class factor comparison basis with other positions which have been specifically allocated" (emphasis supplied).

In Lewis & Myers v. DP, 81-154, 156-PC (7/26/82), the Personnel Commission stated: "It would appear that while the 'classification factors' are not to be ignored in determining the classification of a position, these are of secondary importance to specific definitions within the class descriptions."

In the instant case while it is true that position allocations are based upon the general classification factors noted above, such allocations also must satisfy the class specifications described in Finding of Fact 5. As discussed previously appellant's position does not meet the class specifications for Librarian 2. However, the Librarian 1 class specifications do describe appellant's position. Therefore, the Commission rejects this argument of appellant. (For a similar approach see the Commission's decision in Skille v. DER, 86-0093-PC (3/18/87) at page 10.)

Appellant also relies on the allocation pattern described in Finding of Fact 6 to support her position. However, for the reasons listed above the Commission also rejects this argument of appellant. In addition, the appellant has not established that the clear language of the allocation pattern standing alone supports reclassification of appellant's position.

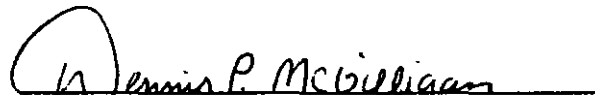
Based on all of the above, the Commission finds that appellant's position is more appropriately classified at the Librarian 1 level. Therefore, the answer to the issue as agreed to by the parties is YES, the decision of the respondent to deny reclassification of position from Librarian 1 (PR 13-02) to Librarian 2 (PR 13-04) was correct.

ORDER

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

Dated: June 11, 1987

STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


LAURIE R. MCCALLUM, Commissioner

DPM:rk
RK1/2

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