

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 DOUGLAS KNIGHT, \*  
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                   Appellant, \*  
 \*  
 v. \*  
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 Secretary, DEPARTMENT OF \*  
 EMPLOYMENT RELATIONS, \*  
 \*  
                   Respondent. \*  
 \*  
 Case No. 85-0178-PC \*  
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FINAL  
 DECISION  
 AND  
 ORDER

Pursuant to §227.09(2), Wis. Stats., the respondent filed written objections to the proposed decision and order. While the basic points in the objections had been previously raised in respondent's posthearing brief, they were reviewed by the Commission and discussed with the examiner.

The Commission adopts the proposed decision and order and incorporates the following findings and comments with it.

In its objections, respondent asserts that appellant does not meet the ITD 3 level because he does not direct the treatment program at the center. The assertion is that Mr. Gintz supervises the unit directors who implement the plan of care for each resident. While this is correct to a limited degree, the clear facts are that unit directors are not mandated to have any of the special qualifications which the federal code requires for professional supervisory responsibility. Consequently, unit directors cannot supervise professional staff except to make them aware of pre-determined schedules. The clear evidence is that appellant is responsible for the supervision of unit professional and para-professional staff. This function is administered through professional staff coordinators, who have

the credentials necessary, by law, to supervise professional staff working in the individual units.

In addition, as expressed in findings 11-17, the evidence shows that NWC's treatment program functions were shared by Mr. George Gintz, who was classified as an ITD 3 and the appellant, Mr. Knight. Finally, appellant's position parallels that of Dennis Zoltak (Respondent's Exhibit No. 9) an ITD 3 at Southern Wisconsin Center.

Respondent's other objection centers upon an argument which includes the assumption that appellant's duties are at the ITD 3 level, but asserts there was no logical and gradual change in duties as required by law for reclassification. The key point respondent makes in that regard is that in 1981 the appellant was assigned new duties which constitute 45% of his responsibilities.

Again, the evidences does not support this argument. Without listing every change in appellant's duties since 1973 when he was reclassified to ITD 2 (PR1-16), the record shows the following pertinent increases in his duties, over a period of ten years which have moved his position to the ITD 3 (PR1-17) level. In April of 1974, the Social Services Department was added to appellant's responsibilities. In 1978, appellant's unit was reorganized into a section and supervision of appellant changed from Mr. Gintz to the superintendent of NWC.

During this same period, as emphasis at NWC moved toward unitization, the appellant was given additional duties including coordinating inter-disciplinary staffing and assisting the development of unitization procedures. Concomitantly, NWC underwent staff reductions, curtailment of community services and administrative realignment. The Center's Special Service Director position (PR1-16) was not refilled when it was vacated by

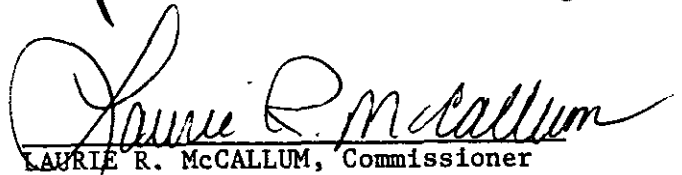
retirement of its director in 1980 and several trial measures were initiated to absorb the responsibilities of that position. Again in December of 1981, appellant's duties were increased, this time to include the remaining non-medical treatment disciplines and therapy programs, formerly the reduced responsibility of the vacated Special Services Director (PR1-16) position. Contrary to respondent's predications, those duties assigned to the appellant in 1981 constituted not 45% but approximately 20% of his total duties and were at the PR1-16 level.

During this same period, the center also went through changes in its method of delivering care to the residents. The delivery of care evolved from the "Medical Model" of services, with emphasis on medical care, to programs where the residents were in the daily care of various professional and paraprofessional personnel. Later the program system was decentralized into the unit system. It was this culmination of factors, occurring over several years, involving changes in both appellant's duties and the center's resident care delivery system which caused appellant's position to warrant reclassification to the ITD 3 (PR1-17) level.

Dated: September 17, 1986 STATE PERSONNEL COMMISSION

  
DENNIS P. MCGILLIGAN, Chairperson

  
DONALD R. MURPHY, Commissioner

  
LAURIE R. McCALLUM, Commissioner

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 Respondent. \*  
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PROPOSED  
 DECISION  
 AND  
 ORDER

This is an appeal of a decision by respondent to deny appellant's request for reclassification of his position. A hearing was held January 14 and 15, 1986, before Commissioner Donald R. Murphy and the briefing schedule was completed April 10, 1986.

FINDINGS OF FACT

1. At all times relevant to the point at issue, the appellant was employed in the state classified civil service as an Institution Treatment Director 2 (ITD 2) at Northern Wisconsin Center, Chippewa Falls, Wisconsin.

2. In 1969 appellant became the Development Education Center Coordinator. As a result of a survey of Program Administration positions in 1972, his position was placed at the Social Services Supervisor 2 level. Subsequently, this position was reclassified as Institution Treatment Director 2 in November 1973.

3. In April, 1974, the Social Services Department, a unit of the Care and Treatment Section, was added to appellant's administrative responsibilities. This additional responsibility included placements; in-house

social work services; liaison to community boards, courts, and families; resident work programs; and attendant services to the Development Education Center services.

4. In 1978 Social Services was removed from the Care and Treatment Section, under the supervision of George Gintz, and became the Community and Social Services Section with the appellant reporting directly to the director of the institution.

5. During this same period -- 1977, 1978, emphasis at NWC moved from development of community resources to unitization. A professional team concept was developed and social workers were transferred to individual units. In addition, Occupational Therapy and Physical Therapy were removed from the Care and Treatment Section and placed in Special Services.

6. In February, 1980, the Special Services Director retired, his position was eliminated and in 1981 Special Services was merged with Community and Social Services to become Community, Social and Special Service Section, under the direction of appellant.

7. At the time pertinent to his reclassification, appellant was responsible for directing and coordinating professional and para-professional staff who were engaged in treatment and care programs.

8. Appellant's goals and work activities as expressed in his position description were:

45% A. Direct service programs of the Community, Social, and Special Services section to ensure that quality programs are in fact meeting assigned objectives and responsibilities of this section.

A.1. Develop an achievable set of goals and objectives related to the service programs under this section as they relate to clientele of this institution, as well as those being considered for admission to or transfer out of this institution.

- A.2. Develop an achievable set of goals and objectives relative to quality assurance provisions and professional services for residents of this institution (exclusive of medical and nursing and chaplaincy services).
  - A.3. Coordinate the development of a policy statement for each of the program services which is functional for this institution and compatible with goals and objectives of the Division of Care and Treatment Facilities in keeping with mandates, statutes, and codes affecting the operation of Northern Wisconsin Center.
  - A.4. Assure appropriate input to the incorporation of policies and procedures for this section into the policy and procedure manual for the institution.
  - A.5. Establish an overall plan which allows for one- to five-year projections and incorporates management by objective principles with functional/manageable work plans for each of the staff in this section.
  - A.6. Coordinate program implementation of the various facets as they are integrated into the unit system at this Center.
  - A.7. Coordinate the generic programs and services of the Division of Care and Treatment Facilities with the two sister institutions as appropriate.
- 20% B. Supervision of staff recruitment, training, and development.
- B.1. Determine staff needs for community, placement, and special services in cooperation with other service elements.
  - B.2. Provide supervision and coordination of existing staff relative to the following:
    - B.2.a. Strengths and weaknesses.
    - B.2.b. Training needs.
    - B.2.c. General and specific growth opportunities.
- Accomplish through evaluations, employment of the PPD process, and utilization of work plans within the framework of personnel policies and procedures and administrative directions of this institution.
- B.3. Provide individual supervisory conferences on a scheduled basis in response to identified priorities and needs, considering:
    - B.3.a. Program needs.
    - B.3.b. Individual's needs.

- B.4. Implement Community, Social, and Special Services Council to provide a forum for:
  - B.4.a. Group process in determining goals and objectives.
  - B.4.b. Cross-modality communication.
  - B.4.c. Group supervisory purposes.
  - B.4.d. Overall coordination of programs and services of this section as they interface with the institution and the Division of Care and Treatment Facilities.
- B.5. Coordinate with peers and Central Office to assure consistency and continuity of services.
- B.6. Coordinate with the Personnel Office relative to training of supervisors, consultation processes, grievance procedures, and contemporary personnel practices in fulfilling supervisory responsibilities:
  - B.6.a. To staff directly under supervision.
  - B.6.b. To staff who in turn must supervise others.
  - B.6.c. To generalists in order for them to be able to pass on information to community elements as appropriate in the development of programs and personnel practices.
- B.7. Oversee the development and implementation of an orientation package for new staff.
- B.8. Typify the tenor to be exercised in the provision of supervisory functions for professional personnel.
- 5% C. Coordinate Utilization Reviews at Northern Wisconsin Center, as well as Inspection of Care reporting.
  - C.1. Compile and coordinate Utilization Review Committee activities.
  - C.2. Maintain minutes in keeping with ICF codes and approved UR plan for Northern Wisconsin Center.
  - C.3. Report as necessary on those "not recommended for continued stay" at the Center.
  - C.4. Notify responsible parties and community boards on UR/IOC status following review.
- 10% D. Provide direction to professional services as they relate to the following:
  - D.1. Assure advocacy responsibilities being provided for.



- D.2. Monitor compliance with ICF codes in regard to professional services; provide consultation to maintain compliance; and/or develop plans of correction.
  - D.3. Consult with appropriate supervisory staff and peers relative to professional services (i.e., quality and quantity of quality control measures which will support assurance of these services in the unit).
  - D.4. Supervise the Professional Services Coordinators in assuring and carrying out professional programs.
- 3% E. Coordination of programs and services with the communities, families, and the institution.
- E.1. Communicate progress, problems, and concerns to the Center Director and the Division of Care and Treatment Facilities relative to success and/or failure in accomplishing assigned tasks and responsibilities as they relate to consultation programs as well as specific programs carried out at the institution such as placement services, respite care, community consultation, admissions, etc.
  - E.2. Utilizing the PPD process, develop quarterly and annual work plans for staff which incorporate Center objectives stated in the Center's annual plan.
  - E.3. Communicate and Support Division thrusts in utilizing the Centers as regional resources in the development and support of community-based programs which enhance and enrich the availability of a continuum of services for DD clientele.
  - E.4. Plan and coordinate the interchange of staff experiences and orientations with their counterparts within the Division of Care and Treatment Facilities and the Division of Community Services to enrich the staff development and enhance the feasibility of the continuum of services being available in the northern half of the state.
- 5% F. Staff Training and Development.
- F.1. Direct development, implementation, monitoring, and evaluation of training curriculum, programs, and services for staff of this institution:
    - F.1.a. If provided through section resources.
    - F.1.b. If provided through institution resources.
    - F.1.c. If provided through state resources.
    - F.1.d. If provided through other resources.

- F.2. Involve as appropriate and/or assigned in meeting staff training and development requests as a resource in meeting institution-wide orientation and training program needs.
- F.3. Consult/coordinate CTA efforts relative to staff training and development programs provided community staff and/or agencies.
- F.4. Serve as resource for Division of Care and Treatment Facilities relative to staff training and development for staff as well as community agencies and community personnel.

10% G. Administrative responsibilities.

- G.1. Participate purposefully in representing this section and facilitating communication relative to same through such activities as Executive Council meetings, staff meetings, etc.
- G.2. Represent Northern Wisconsin Center at meetings, conferences, hearings, etc., as appropriate and/or assigned.
- G.3. Assume the central administrative responsibilities as assigned, which include but are not limited to the following:
  - G.3.a. Coordinate and consult on legal status of residents/clients.
  - G.3.b. Be a resource relative to legal requirements on resident processing.
  - G.3.c. Maintain appropriate UR/IOC reporting.
  - G.3.d. Assure appropriate social work coverage of assigned function areas.
  - G.3.e. Fulfill liaison responsibilities as delegated/assigned.
  - G.3.f. Assume responsibility for sharing rotated administrative assignments, such as Administrative Officer, etc.
  - G.3.g. Deputy record custodian duties.

2% H. Emergency Human Services Coordination.

- H.1. Maintain up-to-date Emergency Human Services Plan for Northern Wisconsin Center.
- H.2. Represent Northern Wisconsin Center in Department of Health and Social Services activities on the state-wide plan as assigned.
- H.3. Administer the Emergency Human Services plan at Northern Wisconsin Center as set forth in current document.

9. The state classified civil service position standard for the ITD 2 position classification provides in pertinent part:

Definition:

This is responsible administrative work directing all aspects of the treatment program at a large juvenile correctional institution or supervising a fully operational Development Evaluation Center (DEC) Program at one of the colonies for the mentally retarded. At a large juvenile correctional institution, the employes in this class organize, coordinate, and implement a total treatment program including medical, dental, social, recreational and religious services. This is accomplished through direct supervisory control over staff members or through coordination of services provided by subprogram supervisors. The employe is responsible for the development of internal operating procedures consistent with institutional philosophy and established division and departmental policies, and for conducting staff development training sessions. In addition, an employe is responsible for the coordination of the treatment program with the other major institution program areas as it relates to administrative or staff development activities.

The Development Evaluation Center coordinator supervises a multi-disciplinary professional staff in a community oriented service program providing a wide range of services to the mentally retarded in an assigned area of the state. These services encompass all of the following: pre-admission evaluations, out-patient clinical evaluation, pre-vocational evaluation, technical consultation, family care, nursing home care, and home, vocational and residential care placements. The coordinator must insure uniformity of program goals and consistency of staff services provided throughout his assigned region of the state. Regardless of the particular orientation of services, DEC positions are allocated to this class on the basis of the size and multiplicity of programs administered, as well as the operational stage of development of the services provided. Employes in this class report to the Institution Superintendent with supervision limited to periodic conferences and a review of program reports.

10. The state classified civil service position standard for the ITD 3 position classification provides in pertinent part:

Definition:

This is responsible administrative work directing the treatment program at a colony for the mentally retarded or at a large adult correctional institution. In a colony, the employe in this class is responsible for directing and coordinating a multi-disciplinary professional and para-professional staff engaged in diverse treatment and care programs, such as medical, dental, psychological, intensive treatment, rehabilitation and nursing services which were designed to meet a multiplicity of patient needs. An employe in this class is responsible for the

development and implementation of a comprehensive treatment program through: (1) the development of formal program goals, objectives and philosophies; (2) providing for staff development training of professional and para-professional staff; and (3) the direct supervision of staff activities or the coordination of program activities through technical subprogram supervisors. The work involves ongoing evaluation of treatment services provided for purposes of determining modification or additions necessary to maintain and improve the institution treatment program.

At a large adult correctional institution, employees in this class are responsible for implementing and maintaining treatment oriented programs dealing with the medical, dental, academic and vocational education, religious, social development, and recreational needs of the inmate population. The employee directs the heads of the various subprogram services and establishes program operating procedures in order to coordinate all treatment services provided in terms of the overall treatment program's goals and objectives. Considerable coordination of the treatment functions with the education, security, and management services program is required of employees in this class, particularly as it relates to the employee's responsibility for developing and administering the staff development program.

Positions allocated to this class are differentiated from those of other classes in the series on the basis of the size and scope of the institution treatment program and the latitude for individual initiative and independent responsibility for decision making delegated to the employee. Employees report to the Institution Superintendent with supervision limited to periodic conferences and a review of program results.

11. Organizationally, DHSS's Division of Care and Treatment was responsible for the administration of the three developmental disabilities centers.

12. Each center, including NWC, employed a unit system form of management. Residents in this form of care and treatment, were housed in several small, autonomous facilities called units. Each unit was a form of licensed nursing home and its operation was responsible for the care and treatment of each resident assigned to that unit. Its operation was required to be in compliance with federal and state regulations.

13. Each unit had a unit coordinator who was responsible for utilizing staff in implementing the plan of care for each resident.

14. Professional staff in each unit reported to discipline coordinators who were described in the regulations as having certain credentials, i.e., lead social worker, chief psychologist or medical director.

15. Unit coordinators were responsible for the 24 hour care of residents. They reported to the Director of Care and Treatment who was an ITD 3.

16. Discipline coordinators were responsible for the professional care of residents. Usually, this care and treatment was performed during the 8 hour day shift.

17. At the time relevant to the reclassification request, appellant's major program areas were:

- Psychological
- Intensive Treatment
- Rehabilitation
- Preadmissions
- Prevocational and Clinical Evaluation and Planning
- Outpatient
- Occupational Therapy
- Physical Therapy
- Special Education
- Staff Training and Development
- Volunteer Services
- Open Records Requests (shared with director)
- Emergency Human Services
- Social Work
- Speech Pathology
- Resident Status and Processing (Including Legal)
- Recreation
- Community Technical Assistance

He directed and coordinated the professional and paraprofessional staff engaged in these programs.

18. Appellant's position by virtue of its duties and responsibilities is more appropriately classified at the Institution Treatment Director 3 level.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to §230.44(1)(b), Stats.

2. The appellant has the burden of proving that respondent's decision denying reclassification of his position from ITD 2 to ITD 3 was incorrect.

3. The appellant has met that burden of proof.

4. Appellant's position best fits the ITD 3 classification.

OPINION

In summary, respondent's reasons for denying reclassification of appellant's position to ITD 3 are:

Appellant's position does not meet the ITD 3 classification requirements of being responsible for directing and coordinating a multi-disciplinary professional and paraprofessional staff engaged in diverse treatment and care programs; and being responsible for administrative work directing the treatment program at a colony for the mentally retarded. If the ITD 3 classification is appropriate for appellant's position, reclassification is inappropriate because the position did not undergo a logical and gradual change as required by §ER-Pers 3.01(3), Wis. Adm. Code.

In support of its position, respondent poses that care and treatment responsibilities for residents at NWC were in the ITD 3 position held by George Gintz and that appellant's care and treatment duties were not gradual as required by law for reclassification, but occurred when he was assigned Special Service duties in December 1981.

The evidence clearly shows: Over a ten year period, beginning in 1973, NWC underwent significant changes. The community services activities of the Development Education Center (DEC) headed by appellant, were curtailed but respite and evaluation services increased in importance. In 1974 social services, (placements, social work programming and outreach liaisons) was merged with DEC. These services were delivered by a variety

of professional and paraprofessional staff, including social worker, sociologist, and psychologist. Later, in 1978, the unit headed by appellant was removed from the care and treatment section and became the Community and Social Services Section with appellant reporting directly to the director of NWC.

In 1980 NWC's Special Services Director retired, the position was not refilled and subsequently the responsibilities of that position were reassigned to appellant. In December, 1981, the Special Services Section was merged with Community and Social Services and became the Community, Social and Special Services Section. With the addition of the special services function, all professional and paraprofessional staff leadership was contained in the Community, Social and Special Service Section (C.S. & S.S. Section), except nursing service, in the Care and Treatment Section, and medical service, which was entirely separate.

In summary, organizationally NWC was divided into medical and non-medical resident treatment programs. Medical Treatment Services had two components: Physicians, who were supervised by the Physician Supervisor; Nursing Services, which was supervised by Mr. Gintz, an ITD 3. The non-medical treatment services program was supervised by the appellant. In addition, appellant was responsible for correcting NWC deficiencies cited by outside reviewers and other departmental and divisional units of state government who monitor the activities of NWC staff. Also, Appellant's section was responsible for court actions involving resident status and providing expert testimony in guardianships, competency hearings and other legal determinations involving residents.

The evidence in this matter before the Commission persuasively suggests that appellant's responsibilities logically and gradually changed

since 1973 when he was classified an ITD 2. During this period, appellant's position expanded as NWC made significant organizational and programmatic changes. Appellant's responsibilities extended from one discipline -- social services, to all non-medical disciplines, including occupational and physical therapy. While it is true appellant's responsibilities were accelerated in 1981 with the merger of Special Service, this action was the culmination of two years of testing various organizational arrangements.

The evidence, also, clearly demonstrates that appellant's position compared favorably with that of George Gintz. Mr. Gintz, an ITD 3, was director of the Care and Treatment Section at NWC. He supervised some 700 employees responsible for implementing the individualized care and treatment plans of the residents. These employees were primarily concerned with the daily care and schedule of residents. In comparison, appellant supervised 150 employees in various disciplines who delivered specific forms of care and treatment to the residents. Gintz directly supervised the unit directors who were responsible for the daily care of NWC residents, while appellant directly supervised the various discipline coordinators, who provided specific professional care for unit residents. The funding for the unit care program, by regulation, was triggered by the use of discipline coordinators who were supervised by appellant. In addition, appellant's position was responsible for emergency human services and staff training and development programs for all levels of staff.

The Commission believes that both the Gintz and appellant positions shared in the care and treatment of the residents at NWC. While there were differences between these two positions with respect to numbers of positions supervised and the amount of hours spent by the two groups performing



these duties, these factors were balanced by the kinds of care delivered by each group. Moreover, appellant's position included staff training and development programs, emergency human services and correcting program deficiencies, all of which impacted upon the care of NWC residents. Based upon the evidence presented, the Gintz position appears no more urgent than appellant's.

ORDER

Respondent's decision is rejected and this matter is remanded to respondent for action in accordance with this decision.

Dated: \_\_\_\_\_, 1986      STATE PERSONNEL COMMISSION

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DENNIS P. MCGILLIGAN, Chairperson

DRM:jmf  
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