

LARRY OLSON,

Appellant,

v.

Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondent.

Case No. 87-0169-PC

DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal of a decision by the Department of Employment Relations, respondent, to reallocate the position of Larry Olson, appellant, and to regrade him from an Employment Security Assistant 2 (PR 2-08) to Employment Security Assistant 1 (PR 2-07). This appeal is one of 14 appeals involving employees who were similarly reallocated and regraded. These cases were originally combined and referred to as Hildebrandt et al. v. DER, Case No. 87-0139-PC, etc.

During the prehearing conference, the parties agreed to proceed to hearing only on the instant case. Once a decision was reached in Olson, the remaining appellants would consider how they wished to proceed.

The issues set for hearing in this case were:

- a) Whether the respondent's decisions reallocating the appellants' positions to the Employment Security Assistant (ESA) 1 level were correct.
- b) Whether the respondent's decisions regrading the appellants were correct.
- c) If the reallocation decision is incorrect as to a particular position, whether that position is more appropriately classified at either the ESA 2 or 3 level.

Appellant did not personally participate in the hearing. Appellants' representative and respondent's counsel jointly submitted exhibits which both parties stipulated would form the fact basis for the decision. No direct testimony was given.

The decision in this case is based on the stipulated facts and the oral argument and briefs filed by each party.

#### FINDINGS OF FACT

1) At all times relevant to the issues in this case, appellant has been employed in the Eau Claire Job Service Office, which is a part of the Job Service Division in the Department of Industry, Labor and Human Relations (DILHR), and has reported to Mr. Alan Wistrom, a Job Service Supervisor 3.

2) Prior to March 30, 1986, appellant's position was classified as a Job Service Assistant 2 with a working title of Clerical Unit Assistant.

3) As a result of a personnel management survey conducted by the Department of Employment Relations (DER), a new classification series entitled Employment Security Assistant (ESA) was created to identify positions such as that held by the appellant. As a result of this survey, respondent (DER) reallocated appellant's position from a Job Services Assistant 2 to an Employment Security Assistant (ESA) 2, effective March 30, 1986. This action was a lateral reallocation, i.e., both the old and new classification were in the same pay range.

4) Except for a change in the working title of the position to Unit Support Clerk (from Clerical Unit Assistant), the March 30, 1986, reallocation action was based on appellant's position description, which was signed by the appellant and his supervisor on March 19, 1985. (Joint Exhibit #4)

5) On January 8, 1987, the Commission issued a decision in the case of Rutowski v. DER, Case No. 86-0072-PC, which affirmed respondent's reallocation of Ms. Elaine Rutowski's position from Job Service Assistant 2 to Employment Security Assistant 1. This decision identified some anomalies in the allocation of positions to the ESA 1 and ESA 2 level, based on the position comparisons introduced at the hearing in the Rutowski case.

6) As a result of the Rutowski decision, respondent initiated a review of the ESA positions in the Job Service Division. This review included a review of position descriptions, job audits of selected positions, and discussions with staff involved in the development of a computer reporting system. (Joint Exhibit #1) Appellant's position was not included in the positions selected for an on-site job audit.

7) As a part of respondent's review, DER requested Job Service program managers to redo the position descriptions for employees in positions classified in the ESA series. Appellant, and his supervisor, signed a new position description for appellant's position on March 23, 1987. (Joint Exhibit #3)

8) The position description (PD) developed and signed in 1987 accurately reflects the duties and responsibilities of appellant's position. This PD (1987) was requested by respondent, in part, because of concerns that "standardized" position descriptions had been used previously which did not accurately reflect the specific duties and responsibilities assigned to a position.

9) The position summaries for appellant's 1985 and 1987 position descriptions are as follows:

1985

Under general supervision of the Employment Assistance Supervisor and direction of the Clerical Unit Leadworker, reports unit and office activity via CRT input and ESARs reports, processes application cards and job orders, monitors activity in the self-service center, relieves staff at the Information Station, completes obtained employment follow-up and reports obtained employments, files application cards and other records, administers Civil Service and GATB tests.

1987

Under general supervision of the Employment Assistance Supervisor, reports activity and services provided by the unit and office to the Job Service Information System by computer input. Process and input application cards and job orders. Monitors activity in the self service center, greets applicants at information stations, completes obtained employment followups and reports obtained employments, files application cards and other records, administers civil service and GATB tests.

The distinctions between these two summaries are minimal and basically involve the elimination of the reference to working under the "direction of the Clerical Unit Leadworker" in the 1987 PD, and the reference to unit and office "activities" in the 1985 PD was changed to unit and office "services" in the 1987 PD. In addition, the 1987 summary identifies that all reporting is done by computer input to the Job Information System as opposed to the computer (CRT) and manual (ESAR reports) input identified in the 1985 PD.

10) The goals and worker activities reflected in appellants 1985 and 1987 position descriptions are identified below.

1985 Position Description

<u>Time %</u>	<u>Goals and Worker Activities</u>
40%	A. Reporting and Verification of Unit and Office Activities. A1. Review job orders prior to CRT entry for completeness of information. A2. Input job orders, initiate order adjustments, enter referral and referral results information, and close job orders via CRT entry.

- A3. Prepare monthly synopsis of unit's referral and hire activity for use by supervisor to monitor individual staff performance.
- A4. Report negative referral responses to the Unemployment Compensation Unit daily.
- A5. Verify Order Master File upon receipt with past month's closed job orders to assure that all closed orders were properly reported to ESARs and were correctly closed at the Administrative Office. Notify the Administrative Office when errors are detected to assure order corrections are made.
- A6. Verify open and closed job orders against 30-day list to assure that office has received credit for all placements reported. Notify Administrative Office when errors are identified. Follow up until proper credit is received.
- A7. Proof, verify and identify all changes or problems on application before processing.
- A8. Contact applicant by phone for additional correct or missing information.
- A9. Initiate copy of Social Security Number if error is made on initial form or in other Job Service office.
- A10. Contact and work with MIS for Social Security number changes or other problems that cannot be cleared up at a local office.
- A11. Implement and change computer records if necessary, i.e., name, address, social security number, renewals, updates, inactivations, or any characteristic changes, using a multi-step computer process utilizing a thorough knowledge of the Automated System IV, ES.
- A12. Audit mark all records to verify activity has been reported.

25%

B. *Monitoring of the Self-Service Center.*

- B1. Collect interest slips daily from the Self-Service center completed by applicants interested in job openings located on the state-wide microfiche.
- B2. Locate job openings on the CRT by sequence number to determine the current status of the order (i.e., closed, open, hold, verification status).
- B3. Contact applicants by phone or letter to notify them when the order is in closed, hold or verification status.
- B4. Locate the application cards of persons completing interest slips when the order is in open status.

- B5. Compare applicant qualifications against qualification required by the employer. Determine whether or not the applicant possesses minimum qualifications of the job opening(s). Request professional staff assistance, if necessary, in making the decision. Call the applicant in for an interview, if necessary.
- B6. Notify applicants by phone or letter if it is determined they do not meet the minimum qualifications of the job openings. Collect additional information the applicant may have regarding their qualifications.
- B7. Call order holding office if applicant is qualified to determine if job is still open and available for referral.
- B8. Provide order holding office with applicant's name and other referral data or key information via the CRT depending on the procedures followed by the order holding office. Obtain specific referral instructions.
- B9. Provide applicant with referral instructions by telephone or in person. Post intra-state referral to the application card.
- B10. Instruct applicants as necessary in use of job bank and other material in the Self-Service Center.
- B11. Monitor Self-Service Center daily to assure microfiche viewers are in working order, current microfiche are available, job postings and other material are current and that the Self-Service Center is neat and orderly.

10%

C. Provision of intake and information services.

- C1. Greet and screen applicants to determine the purpose of their visit, provide registration information and disseminate appropriate forms and route as appropriate.
- C2. Refer U.I. claimants to the Unemployment Compensation Division to file their claim and to be screened for the E.S./U.I. work registration requirement.
- C3. Determine registration status of all ES applicants on the computer terminal.
- C4. Update the contact date on those applicants who are registered and active and question the applicant to determine if the information on the application card is correct and current. If not, have the applicant complete an "Application update slip". If the information is correct explain the procedure

- for keeping the application card active via the mail in post card.
- C5. Provide the applicant with an "Application update slip" to complete and return if they are registered but their application is inactive. Activate their application in the computer terminal. Retrieve the application card from the inactive file and update the information from the update slip. File the application card in active status.
  - C6. Key information into the computer terminal to develop a skeleton application for all applicants who are not registered.
  - C7. Question applicants to determine if they are registered to attend group registration based on their student, employment and geographic status. Explore the purpose and benefit of group registration to all applicants, except students, and encourage them to attend.
  - C8. Schedule applicants to attend group registration. Enter their name on the scheduling sheet and provide them with a written record of the date and time they are to attend.
  - C9. Provide registration form and instructions to those applicants who are not required to attend group registration and do not voluntarily wish to attend. Instruct them to return the completed application card to the information station and review it for completeness.
  - C10. Reschedule attendance at group registration for applicants, either in person or over the telephone. Coordinate group registration scheduling with the Unemployment Compensation Division to assure that individual groups are not over scheduled.
  - C11. Direct applicants to other work areas such as WEOP, ES workshops and group registration rooms, placement unit, etc.,
  - C12. Answer general inquiries to expedite applicant's visit and minimize professional staff time. Provide routine information to the public.
  - C13. Answer general labor market questions and questions regarding Job Service registration and job placement procedures.
  - C14. Hand out pamphlets on Job Service and DILHR services, State and Federal regulations and other agency programs upon request. Answer questions regarding the Wisconsin

- Current Opportunities Bulletin and issue State Civil Service applications upon request.
- C15. Update application card information and make adjustments such as address and telephone number changes, etc. in the computer. Pull cards from file for adjustments and tally marks.
  - C16. Maintain an even traffic flow in lobby and reception area.
  - C17. Assist other units in locating application cards or applicant information via the computer.
  - C18. Monitor information desk area to assure that work station is neat and orderly and that adequate forms and supplies are available and ordered when required.
  - C19. Process application update slips received daily from the Unemployment Compensation Division to activate or change the application cards of those U.I. claimants who are already registered with Job Service.
  - C20. Complete Student Loan Deferment forms at the request of applicants based on information contained on their application cards.

10%

- D. Information flow and clerical support.
  - D1. Explain and answer applicant's questions regarding local Job Service referral process and applicant's responsibility for keeping application active.
  - D2. Answer inquiries and give standard answers to public by phone or in person.
  - D3. Operate copy machine as directed.
  - D4. Receive telephone calls, provide routine information, refer or connect caller to appropriate source of information.
  - D5. Provide applicants information to community/state social services.
  - D6. Compile statistical data relative to employer relations, referrals, placements, or other activities as directed.

2%

- E. Follow up/Reporting of Obtained Employment for the Staff Directed Employment Component.
  - E1. Maintain and update tickler file of applicants who have been provided information or services under the Staff Directed Employment Program to assure timely followup for the purpose of reporting obtained employments.
  - E2. File tickler cards daily according to week that followup is to be accomplished.



- E3. Pull tickler cards during week that followup is due and contact applicants by telephone or card to determine their current employment status.
- E4. Record employment date in application card if applicant is employed. Determine if employment meets criteria for an "obtained employment" according to agency guidelines.
- E5. Complete ESARs forms to report verified obtained employments. Audit mark records to verify that employment has been reported.
- E6. Discuss and update employability plans and provide specific job leads to applicants enrolled in the Obtained Employment Program who are still unemployed within 90 days after receiving Job Seeking services. Update application card and extend job search status for an additional 90 days. Refile tickler card for future followup.

6%

F. Maintenance of files.

- F1. File application cards by numerical or alphabetical order in an accurate and timely manner.
- F2. Remove and destroy inactive application cards from the files on a monthly basis which have been inactive with no activity for one year and which appear on the ocomputer printout of cards to be purged.
- F3. Update application cards via the CRT including addition or change of names, addresses, characteristics, social security numbers, etc. Call ESARs Unit in Madison to correct Social Security numbers.
- F4. Activate or inactivate application cards via the CRT to assure that application card files correspond to applicant's filing status.
- F5. Remove inactive application cards from the files on a monthly basis in accordance with names provided on a computer listing.
- F6. Combine information contained on duplicate application cards.
- F7. Retrieve or refile application cards from active and inactive files as requested.
- F8. Record changes and/or addition to application files from information received via telephone or written change slips.

6%

G. Testing.

- G1. Administer GATB and typing tests.
- G2. Correct GATB and typing tests.

- G3. Record results of tests on record cards and report testing activity to ESARs.
- G4. Respond to questions from the public regarding Civil Service testing procedure.

1% H. Other duties as required.

1987 Position Description

Time %      Goals and Worker Activities

- 57%      A. Report and Verify Unit and Office Activities.
- A1. through A4. - Same as 1985 PD.
  - A5. Verify the status of all closed job orders on the computer terminal at the end of each month to confirm that all closed orders were properly reported to the Job Service Information System. Correct any errors that are identified by making adjustments to the records on the terminal.
  - A6. Verify open job orders quarterly against the list of open orders contained on the "REPT" screen on the computer terminal. Identify those orders which are in the wrong status and make necessary corrections.
  - A7. through A12. - Same as 1985 PD.
- 5%      B. Followup/reporting of Obtained Employments for the Staff Directed Employment Program.
- B1. Maintain and update tickler file of applicants daily who have been provided services under the Staff Directed Employment Program to assure timely followup for the purpose of reporting obtained employments.
  - B2. File control cards daily according to the week that followup is to be accomplished. Review application card to determine if a control card is already on file and, if so, update the following dates on the existing card.
  - B3. Pull control cards during week that followup is due. Determine current filing status of UI claimants via the CRT. Contact applicants not receiving UI benefits by telephone or card to determine their current employment status.
  - B4. Record employment data in application card if applicant is employed. Determine if employment meets the criteria for an "obtained employment" according to program guidelines.
  - B5. Receive and review all application update cards returned by applicants which indicate that the applicant has returned to work.

Determine if the applicant has received a staff directed service and if the applicant's work status qualifies as an obtained employment.

- B6. Report verified obtained employments via direct data entry. Review application card to assure that all data relating to the obtained employment is properly recorded. Audit mark application card to verify that an obtained employment has been reported to ESARs.
- B7. Purge control cards after reporting an obtained employment or after it is determined that time limits have expired to qualify for reporting an obtained employment.
- B8. Provide special program staff with the names of their clients for whom an obtained employment has been verified and reported.

(Note: This goal and the worker activities were identified as Goal E in the 1985 P.D.)

- 10% C. Provide intake and information services.
  - C1. through C20. - All worker activities the same as on 1985 PD.
- 10% D. Information flow and clerical support.
  - D1. through D6. - All worker activities the same as on 1985 PD.
- 6% E. Maintain files.
  - E1. through E8. - All of these worker activities were identified under Goal F in the 1985 PD, specifically worker activities F1. through F8.
- 6% F. Testing.
  - F1. Administer GATB and typing tests in accordance with manualized procedures to assure test validity and reliability.
  - F2. Review GATB answer sheets for completeness and enter data required to be completed by test administrators. Batch sheets and forward to the administrative office for correction.
  - F3. Correct typing tests and those GATBs which require hand scoring.
  - F4. Record results of typing tests in the computer terminal and on the application card.
  - F5. Report testing service provided on all tests given to the Job Service Information System.
  - F6. Respond to questions from the public regarding Civil Service testing procedures.
- 5% G. Monitor the Self-Service Center.

- G1. Provide information to applicants on job openings posted in the Self-Service Center.
  - G2. Instruct applicants as necessary in the use of job postings and other material contained in the Self-Service Center.
  - G3. Monitor Self-Service Center daily to assure that job postings and other material are current and that the Self-Service Center is neat and orderly.
- (Note: This goal was identified as Goal B in the 1985 P.D.)

1% H. Other duties as required.

The 1987 PD contained the same goals as the 1985 PD. The changes in the worker activities in the 1987 PD involve primarily some reworking of the verbiage to reflect elimination of manual reporting and conversion to a computerized system (See changes in worker activities A5. and A6. in the 1987 PD), or further elaboration on the worker activities for a specific goal (See changes in "Testing" goal, identified as Goal F in the 1987 PD and Goal G in the 1985 PD, and changes in "Followup/Reporting of Obtained Employment for Staff Directed Employment," identified as Goal B in the 1987 PD and Goal E in the 1985 PD.) In addition, worker activities B1. through B8. on the 1985 PD were eliminated in the 1987 PD.

The most significant changes involved changes in the percentage of time assigned to certain goals. The goal, "Monitoring of the Self-Service Center," was decreased from 25% on the 1985 P.D. to 5% on the 1987 P.D. The additional time (20%) was allocated on the 1987 PD to Goal A (Increased from 40% in the 1985 PD to 57% in the 1987 PD), with the remaining time being allocated to the "Followup/Reporting of Obtained Employments for the Staff Directed Employment Program." goal changing it from 2% in the 1985 PD to 5% in the 1987 PD.

11) The Position Standard for Employment Security Assistant series provides, in pertinent part, as follows:

\* \* \*

E. CLASSIFICATION FACTORS

Individual position allocations are based upon the general classification factors described below:

1. The freedom or authority to make decisions and choices and the extent to which one is responsible to higher authority for actions taken or decisions made;
2. Information or facts such as work practices, rules, regulations, policies, theories and concepts, principles and processes which an employee must know and understand to be able to do the work;
3. The difficulty in deciding what needs to be done and the difficulty in performing the work;
4. The relative breadth, variety and/or range of goals or work products and the impact of the work both internal and external to the work unit;
5. Type of supervision received;
6. Organizational status as it relates to level of responsibility;
7. The nature and level of internal and external coordination and communication required to accomplish objectives.

\* \* \*

II. CLASS CONCEPTS

EMPLOYMENT SECURITY ASSISTANT 1

This is clerical work in Job Service and/or Unemployment Compensation Programs. Positions allocated to this class perform routine record maintenance and forms processing activities which require the application of established standardized guidelines and procedures a majority of the time. Work is performed under general supervision.

EMPLOYMENT SECURITY ASSISTANT 2

This is complex clerical work in the Job Service and/or Unemployment Compensation Programs. Positions allocated to

this class interpret and apply established guidelines and procedures in records maintenance, forms processing and direct client services. Positions at this level differ from lower level positions in the frequency and variety of applied discretion and judgement situations, a greater procedural knowledge, and a greater diversity and complexity of the assigned activities. Work is performed under general supervision.

### EMPLOYMENT SECURITY ASSISTANT 3

This is advanced clerical work or leadwork in the Job Service and/or Unemployment Compensation Programs. Positions allocated to this class perform program support activities that involve broad interpretations of established guidelines and procedures when applied to the varied intricate and interrelated situations presented to the position in such areas as establishing claimant benefit eligibility, employer liability records, or providing direct employment services to clients/or employers. Work is performed under general supervision.

Positions allocated to this class as lead workers are responsible for assigning and reviewing the work of positions at the Employment Security Assistant 2 level.

\* \* \*

The position standard does not provide a listing of work examples or typical positions.

12) In a letter dated August 3, 1987, (Joint Exhibit #1) respondent notified appellant that his position was being reallocated from an ESA 2 to an ESA 1 "to correct an error in the previous classification" of his position. Appellant also received a Reallocation Notice (Joint Exhibit #2)<sup>1</sup> indicating that the effective date of the reallocation was August 2, 1987. Appellant filed a timely appeal of his reallocation with the Personnel Commission.

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<sup>1</sup> Commissioner Gerald Hoddinott served as the hearing examiner in this case. His signature appears at the bottom of the Reallocation Notice authorizing the transaction for the Department of Employment Relations. The parties stipulated that they were aware that Commissioner Hoddinott had participated in the transaction that gave rise to the appeal in the instant case, and raised no objection to him serving as the hearing examiner or as a decision maker in the Commission's final decision and order.

13) A Ms. Judith Trippler was, at all times relevant to the issues in this case, also employed in the DILHR Job Service office in Eau Claire as an Employment Security Assistant, and reported to Mr. Alan Wistrom. Ms. Trippler's position was also reallocated from an ESA 2 to an ESA 1 on August 2, 1987.

14) Ms. Trippler's position description, signed by her and her supervisor, on March 18, 1985, indicates that her position was classified as an Employment Security Assistant 2 with a working title of Unit Support Clerk (Joint Exhibit #7). A new position description (PD), signed by her and her supervisor on March 10, 1987, was also developed for her position as a part of respondent's review of positions in the ESA series and accurately reflects the duties and responsibilities of her position (Joint Exhibit #8).

15) Ms. Trippler's 1987 PD indicates the following under Position Summary:

Under general supervision of the Employment Assistance Supervisor, provide followup, file maintenance, and reporting duties on behalf of the Staff Directed Employment Component. Responsible for maintaining followup control files of applicants who have received a staff directed service and for contacting applicants in a timely manner to determine their employment status. Provide support services to professional staff conducting Job Search workshops and assist in the on-going maintenance of office application files. Assist professional staff file search and refer qualified applicants.

This summary is similar to that of her PD (Joint Exhibit #7) dated 3/18/85, except that reference to working under "the direction of the Clerical Unit Leadworker" was eliminated, and the sentence "Assist professional staff file search and refer qualified applicants" has been added.

16) The major goals identified in Ms. Trippler's 1987 PD are:

<u>Time %</u>	<u>Goals and Worker Activities</u>
60%	A. Followup/reporting of Obtained Employments for the Staff Directed Employment Program

- |     |   |
|-----|---|
| 25% | B. Assist professional staff in the file search and referral of applicants to job openings. |
| 10% | C. Provision of intake and information service.   |
| 2%  | D. Maintenance of files.  |
| 2%  | E. Provision of services in support of Job Search workshop.                                 |
| 1%  | F. Other duties as required.  |

The major changes in the 1987 PD from Ms. Trippler's 1985 PD are:

Goal A: The percentage of time performed was reduced from 75% (1985 PD) to 60% on the 1987 PD.

Goal B: This is a new goal on the 1987 PD which was assigned a percentage of time performed at 25%. This time percentage came from reduction in the time percentage for Goal A (15%), Goal C (7%), and Goal D (3%). The specific worker activities assigned under this goal are:

- B1. File search application files for qualified and target group applicants for review by professional staff.
- B2. File search for qualified applicants in the following order: Special Disabled Veterans, Vietnam Era Veterans, Disabled Veterans, all other veterans and eligible persons and non-veterans.
- B3. Select those applicants during file search who appear to most closely possess the occupational qualifications for the job. Give cards to professional staff who will review and make final selection of those applicants to be contacted for referral.
- B4. Call applicants selected by professional staff to discuss the job opening and determine their interest in being referred.
- B5. Provide the applicant with referral instructions such as who to contact, when and how.
- B6. Complete the record of the referral on the Job Service application card and job order.
- B7. May contact employers as directed to update job orders and verify referral results.

Goal C: The percentage of time performed was reduced from 17% to 10%. This goal was identified as Goal D in the 1985 PD.

Goal D: The percentage of time performed was reduced from 5% to 2%. This goal was identified as Goal B in the 1985 PD.



Goal E: Time percentage remained unchanged for this goal at 2%. One of the two activities identified under this goal in the 1985 PD was eliminated in the 1987 PD. This goal was identified as Goal C in the 1985 PD.

Goal F: Time percentage remained unchanged for this goal at 1%. There was some expansion of the type of activities performed under this goal in the 1987 PD, to include GATB testing, timekeeping and payroll, and mail programs.

Except as identified above, the same worker activities identified in Ms. Trippler's 1985 PD were also listed in the 1987 PD.

17) For comparison purposes, the position description for Ms. Ruth Christensen, an ESA 2 in the Manitowoc Job Service of DILHR, was introduced (Joint Exhibit #9). The PD accurately reflects the duties and responsibilities of the position as follows:

<u>Time %</u>	<u>Goals and Worker Activities</u>
50%	<p>A. Provision of information to all people contacting the office personally or by telephone.</p> <ul style="list-style-type: none"><li>A1. Assesses needs and uses initiative, judgment and knowledge of program, office units, emphasis and work assignments to refer clients to proper Job Service unit.</li><li>A2. Hands out applications for UC/work and verifies Social Security numbers.</li><li>A3. Gives instructions for completion of forms.</li><li>A4. Refers individuals to Job Information Center, self-service center.</li><li>A5. Receive incoming calls and directs to appropriate person or unit.</li><li>A6. Takes telephone messages when individuals are not available.</li></ul>
30%	<p>B. Performs routine eligibility determination follow-up contacts for WEOP with clients and employers for JTPA, TJTC.</p> <ul style="list-style-type: none"><li>B1. Interviews applicants to obtain and verify applicant information and income to insure that program eligibility criteria have been met.</li><li>B2. Review applications for completeness of required information and to identify</li></ul>

potential applications for the JTPA pool of eligibles.

- B3. Questions applicants to clarify or obtain information about training, education, work history and family income status.
  - B4. Answers routine questions about JTPA and TJTC.
  - B5. Contacts employer to clarify and correct errors on TJTC vouchers.
  - B6. Reviews TJTC certifications for obtained employment reporting, enters obtained employment if appropriate.
  - B7. Performs follow-up contacts with applicants previously certified for JTPA to determine status.
  - B8. Review WEOP employment/training contract invoices and contacts employers/training facilities to insure timely and accurate reporting and payment.
  - B9. Performs telephone follow-up contacts with WEOP enrollees to determine current status.
  - B10. Performs WEOP deregistration duties.
- 5% C. Maintenance of all application files.
- C1. Files application cards.
  - C2. Performs monthly/yearly purge.
- 5% D. Preparation of reports and records.
- D1. Report office activities such as referrals, placements, counseling, etc., including WEOP.
  - D2. Input job orders to Job Bank.
  - D3. Type letters to employers regarding order verification.
  - D4. Secure and compile information for reports such as MA 5-20, 5-97, photocopier report.
  - D5. Responsible for keeping the MA-201 and MA-141 job order printout up to date and correct
- 5% E. Timekeeper and payroll clerk functions.
- E1. Maintain information on leave granted to staff.
  - E2. Prepare regular and overtime payroll records.
  - E3. Review time distribution records of staff and prepare for submission to administrative office.
  - E4. Compare time sheets with leave records to insure accuracy.
- 5% F. Leadworker responsibilities.
- F1. Trains WEOP, JTPA and other contributed work experience.

- F2. Schedules hours of work and keeps track of time cards, etc., for contributed staff.
- F3. Assigns work to work experience staff such as filing, typing, reception, etc., as needed.
- F4. Reports on performance, problems, etc., to appropriate supervisor.

18) Appellant's position is better described by the Position Standard for the ESA 1 classification, and respondent's action to reallocate the position to the ESA 1 level and regrade the appellant was correct.

#### 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 showing by the preponderance of evidence that respondent's decision to reallocate his position and to regrade him was incorrect.

3) Appellant has not met his burden of proof.

4) Respondent's decisions to reallocate appellant's position and to regrade him from the ESA 2 level to ESA 1 level was not incorrect, and appellant's position is more appropriately classified at the ESA 1 level.

#### DISCUSSION

The issues established for the hearing in this case were:

- a) Whether the respondent's decisions reallocating the appellants' positions to the Employment Security Assistant (ESA) 1 level were correct.
- b) Whether the respondent's decisions regrading the appellants were correct.
- c) If the reallocation decision is incorrect as to a particular position, whether that position is more appropriately classified at either the ESA 2 level or 3 level.

In the discussion which follows, the Commission will first address the issues related to whether respondent was correct in reallocating appellant's position

to the ESA 1 level, and the appropriateness of the classification level of appellant's position (Issues a and c above). The second part of the discussion and analysis will address respondent's decision to regrade the appellant (Issue b).

Issues a and c

In cases involving the correctness of a position classification action, the Commission has consistently held that they will give primary consideration to the clear language of the classification specification. Zhe et al. v. DHSS and DP, 80-285-PC (11/19/81); aff'd by Dane County Circuit Court, Zhe et al. v. PC, 81-CV-6492 (11/2/82). If the specification (or position standard) does not provide a clear basis to distinguish positions, then the Commission will look at comparable positions. Saindon v. DER, 85-0212-PC, 10/9/86.

In the case of appellant's position, the position standard for the Employment Security Assistant (ESA) series identifies the following differences between the ESA 1, 2 and 3 level under the "Class Concepts" section.

ESA 1

This is clerical work . . . . Positions allocated to this class perform routine record maintenance and forms processing activities which require the application of established standardized guidelines and procedures a majority of the time. (Emphasis added)

ESA 2

This is complex clerical work . . . . Positions allocated to this class interpret and apply established guidelines and procedures in records maintenance, forms processing and direct client services. Positions at this level differ from lower level positions in the frequency and variety of applied discretion and judgement situations, a greater procedural knowledge, and a greater diversity and complexity of the assigned activities. (Emphasis added)

ESA 3

This is advanced clerical work or leadwork . . . . Positions allocated to this class perform program support activities that involve broad interpretations of established guidelines and procedures when applied to the varied intricate and interrelated situations presented to the position in such areas as establishing claimant benefit eligibility, employer liability records, or providing direct employment services to clients/or employers. (Emphasis added)

The distinction between these classification levels lies primarily in the degree of interpretation of established policy and procedures, and the amount of judgmental discretion exercised by an employee in applying guidelines and procedures to specific program actions or client services. Specifically, the ESA 1 refers to routine work applying standardized guidelines and procedures a majority of the time. At the ESA 2 level, the emphasis is placed on the frequency and variety of activities involving interpretation of established guidelines and procedures, and use of discretion and judgment in these interpretations. This increased complexity is further identified at the ESA 3 level to involve broad interpretations of established guidelines and procedures and applying these interpretations to program support activities, such as benefit eligibility. The ESA 3 level also identifies positions which have leadwork responsibilities over ESA 2's.

In reviewing appellant's 1987 PD (Joint Exhibit #3), 68% of appellant's time is spent on Goal A - Report and verify unit and office activities (57%), Goal B - Followup/ reporting of Obtained Employments for the Staff Directed Employment Program (5%), and Goal E - Maintain files (6%). These activities involve verifying, recording and updating information. The tasks assigned under each of these goals make no reference to contact with clients (except to contact them to verify or correct information), and are well described by the ESA 1 specification as "routine record maintenance and forms processing

activities which require the application of established standardized guidelines and procedures a majority of the time."

At the ESA 2 level, the specification identifies "direct client services" and "a greater variety of applied discretion and judgement situations." Appellant's position seems for the most part to spend a majority of its time in routine activities that do not involve direct client contact and, therefore, appears appropriately identified as an ESA 1.

Based on the record, the Commission notes that the word "routine" seemed to be problematic to the appellant. As used in the ESA specifications, the word "routine" does not mean rote entering of data from a source document to a computer system. The ESA specifications state in part under "B. Inclusions" that "... Positions in this series require procedural knowledge and a general program knowledge in order to perform assigned tasks." If this knowledge were not required, the positions might well be identified at a different level and/or in a classification which did not require this knowledge. In addition, the Commission's review of the record indicates that routine cannot be equated with unimportant. Certainly having correct information on clients is critical to proper service provision. However, the issue in this case is at which classification level the appellant's duties and responsibilities are best identified.

The appellant spends the majority of his time in functions that involve the application of established standardized guidelines and procedures. These activities (Goal A, B and E) do not involve the kind of variety, complexity, and discretion identified at the ESA 2 level.

It can be argued that the remaining 32% of appellant's position (Goal C - Provide intake and information services (10%), Goal D - Information flow and

clerical support (10%), Goal F - Testing (6%), Goal G - Monitor the Self-Service Center (5%), and Goal H - Other duties (1%) involve functions which bring him into direct contact with clients and could present a greater variety and complexity of activities requiring the use of more discretion and judgement. These activities appear (with the exception of Goal D) to more closely fit the concept of the ESA 2 specification. However, they are not functions on which the appellant spends the majority of his time, and the Commission has consistently held that it will look at the total position, compare it to the appropriate specifications, and make a decision based on where the majority of the position's duties and responsibilities are assigned. In this particular case, the majority of the duties and responsibilities of appellant's positions are identified at the ESA 1 level.

This analysis would hold true whether the Commission was looking at the 1985 or 1987 position description. In the 1985 PD, the appellant's time allocation for Goals A, B and E was 48%. (See Finding #10) The percentage of time allocated to these goals in the 1987 PD is 68%. (These goals and their associated worker activities have previously been determined to be best identified at the ESA 1 level.) Both the 1985 and 1987 PD contain a 10% time allocation to Goal D - Information flow and clerical support. This goal, while identifying some client contact, is still best described at the ESA 1 level in that the worker activities are best characterized by the "application of established standardized guidelines and procedures" language of the ESA 1 specification. Specifically, these activities involve giving general procedural and routine information about the office's operations to applicants and the general public, and providing clerical support necessary to refer calls or provide information to other jurisdictions.

The difference between the 1985 and 1987 PD's is that the amount of time spent on activities identified at the ESA 1 was increased from about 58% (48% for Goals A, B and E plus 10% for Goal D) in the 1985 PD to about 78% (68% for Goals A, B and E plus 10% for Goal D) in the 1987 PD. The major changes to the appellant's position are in the percentage of time allocated to specific tasks and not in the type/kind of work (tasks) done. Regardless of the changes in the appellant's PD's, the Commission would still conclude on the basis of either the 1985 or 1987 PD that the position is most appropriately classified as an ESA 1.

In the issue set for the hearing in this case, the ESA 3 classification was identified as a potentially appropriate classification. The ESA 3 classification talks about positions that either have leadworker responsibility and/or involve broad interpretation of guidelines and procedures in performing program support activities such as claimant eligibility and direct employment services. There is nothing in the record to indicate that appellant has any leadwork responsibilities. Therefore, his position does not fit that allocation to the ESA 3 level.

While appellant does have client contact, it is not of the type (in terms of complexity or diversity) identified at the ESA 3 level. Appellant contends that some of his activities are the same as those identified at the ESA 3 level and/or performed by other ESA 3's. There were no position comparisons identified at the hearing, and no showing by appellant that the majority of his duties and responsibilities are identified by the position standard at the ESA 3 level. Consequently, the Commission concludes that based on appellant's duties and responsibilities, his position would not be appropriately classified at the ESA 3 level.



Appellant presented several arguments which he contended would mitigate against reallocating his position from ESA 2 to ESA 1. First, appellant argues that there was no change in his job, and since he was previously classified at the ESA 2 (and Job Services Assistant 2) level, there was no basis for reallocating his position to the ESA 1 level.

This argument misses the point of why respondent conducted a review of positions classified as ESA's. The review of these positions was initially done in 1985 as part of a personnel management survey of certain support positions in Job Service offices. This survey created the ESA classification series and in 1985 appellant was reallocated to an ESA 2. Subsequently, in the decision issued by the Personnel Commission in Rutowski, questions were raised regarding the allocation of positions with similar functions to different classification levels. Respondent then initiated another review in 1987 of these positions to determine if they had been appropriately classified (and reallocated) based on the specifications for ESA's created in the 1985 survey.

Respondent's review did not concentrate on whether jobs had changed or the specifications were in need of revision. Rather, they looked at whether the initial allocation of this position as a result of the 1985 survey was correct. In order to accomplish their review, respondent asked for new position descriptions. These new PD's were requested in order to have more accurate information with which to re-evaluate their initial allocation decision and not to see, in general, what changes had occurred and whether these changes warranted reallocation of the positions to a different classification level.

Appellant also raised a concern about the letter he received from the respondent indicating his position would be reallocated (Joint Exhibit #1). Specifically, he refers to a statement in the letter which indicates that ESA 2's

function as leadworkers, and since he is not a leadworker it is implied that this is the reason that he was reallocated from an ESA 2 to an ESA 1. This reference in the letter is obviously in error since leadworker activities are first identified at the ESA 3 level. While there is nothing in the record indicating why the error was made, it is not the major reason given for reallocation of appellant's positions from the ESA 2 to the ESA 1 level. The reason given is that the majority of the tasks assigned to appellant were considered routine and involved the application of established standardized guidelines and procedures and did not involve the variety of discretionary and judgmental situations which required frequent interpretation of established guidelines and procedures.

While respondent did do selected on-site job audits, appellant's position was not specifically audited. Appellant felt the letter from respondent (Joint Exhibit #1) was misleading in this regard and that his position should have been audited before being reallocated downward. The Commission notes that the letter refers to "in-person job audits of selected representative positions," and appellant did not produce any evidence that this is misleading or inconsistent with the techniques applied in other reviews or surveys conducted by respondent. In addition, there was no showing by appellant that he had any unique duties and responsibilities that respondent had not been exposed to in the positions that were audited. The fact that an audit was not conducted does not make the result incorrect, particularly since respondent had a recent PD signed by both the supervisor and employe which could be used to evaluate the job.

The appellant introduced the position description of a Ms. Judith Trippler, who is also employed in the Eau Claire Job Service Office and was also

reallocated from an ESA 2 to an ESA 1. Appellant argued that this position showed that he was not unique in the sense that other PD's had been redone by the supervisor and there was not much change in the job which warranted reallocation of the position. (The argument regarding the need to have changes in a job before a reallocation is justified was previously addressed and will not be reiterated here.) However, it is interesting to note that Ms. Trippler's 1987 PD contained an entirely new goal that was not part of her 1985 PD. (Finding #16) Specifically, Goal B - Assist professional staff in file search and referral of applicants to job openings - was added and given a 25% time allocation. This reduced from 75% to 60% the time allocated to Goal A - Followup/reporting of Obtained Employments for Staff Directed Employment Program. As previously noted in appellant's position, the work identified by Goal A involved no client contact (except to verify or obtain information) and was found to be appropriately identified at the ESA 1 level as routine work requiring application of established standardized guidelines and procedures. However, more significantly it bears out respondent's concern that standardized PD's were being used which did not accurately reflect the duties actually assigned. In Ms. Trippler's case, 25% of the job was completely different.

If appellant is attempting to argue that both his position and Ms. Trippler's position should have remained at the ESA 2 because they are similar, the argument fails because it does not take into account the classification specifications for ESA 1 and ESA 2. As with appellant's position, Ms. Trippler spends over 60% of her time, i.e., the majority, engaged in the same activities as the appellant. These activities (Followup/ reporting of Obtained

Employments and Maintenance of Files) were previously analyzed and determined to be best identified at the ESA 1 level.

Appellant used the position description for a Ms. Ruth Christensen (Joint Exhibit #9), an ESA 2 in the Manitowoc Job Service Office, to argue that his job was similar and that he should also be classified as an ESA 2. In reviewing the position description for Ms. Christensen, it appears that she may be the only support person in the office. This would in part explain Goal E - "Timekeeper and payroll clerk functions (5%), and the identification of a leadworker responsibility (Goal F) over persons engaged in special employment program (5%).

Goal B - Performs routine eligibility determination follow-up contacts for WEOP with clients and employers for JTPA, TJTC - is given a 30% time allocation on Ms. Christensen's PD. This activity would appear to fit into the ESA 3 specification which identifies program support activities such as eligibility determination.

Goal C - Maintenance of all application files - and Goal D - Preparation of reports and records - are each given a 5% time allocation. Based on previous analysis, these activities (a total of 10% of Ms. Christensen's time) are appropriately identified at the ESA 1 level.

The remaining goal (Goal A - Provision of information to all people contacting the office personally or by telephone) comprises 50% of the position. This goal appears to contain a mixture of routine functions like those performed by appellant and more complex functions related to assessing needs and referring clients.

In this proceeding, there was no testimony to elaborate or further define the job functions outlined on appellant's or Ms. Christensen's position

descriptions. Consequently, the Commission's review of this position comparison must be limited to the words in the PD and the job specifications. Based on this, the Commission concludes that there are distinctions between the duties and responsibilities of the positions which appear to justify the difference in classification level between appellant's and Ms. Christensen's position. This conclusion is based on the following considerations:

1) At least 30% (Goal B) of the position could be identified at the ESA 3 level.

2) Overall office responsibility related to the timekeeper (Goal E), leadworker responsibilities (Goal F), and the functions identified under Goal A could be evaluated at a higher level based on classification factors (Finding #11) such as:

1. The freedom or authority to make decisions and choices and the extent to which one is responsible to higher authority for actions taken or decisions made;
4. The relative breadth, variety and/or range of goals or work products and the impact of the work both internal and external to the work unit;
6. Organizational status as it relates to level of responsibility.

3) Only 10% of the job (Goal C and D) is clearly identified at the ESA 1 level. While some portion of Goal A is also at the ESA 1 level (based on the worker activities), it could be argued that enough of this goal is ESA 2 level work to justify an ESA 2 classification based on the majority of the position's duties.

The above analysis is not meant to be dispositive of the appropriate classification level for Ms. Christensen, but rather to show that there are some significant differences between her position and appellant's position which

could warrant it (Ms. Christensen's position) being classified at a higher level. However, even if appellant had successfully shown that the position was comparable to his, it would not, by itself, be determinative because he has not shown that the majority of his duties and responsibilities are appropriately identified at the ESA 2 level based on a reading of the clear language of the specification.

Consequently, the Commission concludes that respondent's action reallocating the appellant from ESA 2 to ESA 1 was correct, and that appellant's position is most appropriately classified at the ESA 1 level.

Issue b

Under this issue, appellant argues that even if the action to reallocate his position from an ESA 2 to an ESA 1 was correct, he (as the incumbent of the position) should not have been regraded but rather laid off. The appellant supports his argument by stating that in effect his position as an ESA 2 was abolished and recreated as an ESA 1. As such, he should be entitled to the layoff provisions related to transfer, demotion and reinstatement. These options to transfer and demote to other jobs (even to those outside of the ESA series) are important because of the limited number of ESA positions.

These arguments are not persuasive. First, the respondent (DER) has the authority under s. 230.09(2) to:

(a) ... allocate each position in the classified service to an appropriate class on the basis of its duties, authority, responsibilities or other factors recognized in the job evaluation process. The secretary may reclassify or reallocate positions on the same basis.

\* \* \*

(d) If after review of a filled position the secretary reclassifies or reallocates the position, the secretary shall determine whether the incumbent shall be regraded or whether the position shall be opened to other applicants.

Under the rules promulgated by the respondent, a reallocation is further defined in s. ER 3.01(2), Wis. Adm. Code as follows:

(2) REALLOCATION. "Reallocation" means the assignment of a position to a different class by the secretary as provided in s. 230.09(2), Stats., based upon:

\* \* \*

(e) The correction of an error in the previous assignment of a position;

As stated previously, the purpose of respondent's study was to review their initial allocation of positions made as a result of the implementation of a 1985 survey. Respondent's action to reallocate appellant's position was well within their statutory authority and is consistent with their rules.

A regrade is defined in s. ER 3.01(4) as follows:

(4) REGRADE. "Regrade" means the determination of the secretary under s. 230.09(2)(d), Stats., that the incumbent of a filled position which has been reallocated or reclassified should remain in the position without opening the position to other candidates.

In the instant case, the determination to leave the appellant in the position and regrade him is appropriate, because there was no significant change in the job but rather the appellant's job was being reviewed to determine where it best fit within the state classification plan, specifically the ESA series. The argument that this action is not appropriate, and some other action should be taken which is more favorable to the employee, is not persuasive. Carried to its logical conclusion, if an employee's position were reallocated to a higher level the employee would choose to be promoted in most cases because the pay increase would be greater than if he/she were regraded.

The appellant argues further that since the respondent (DER) has the flexibility and authority to determine when employees will be regraded, they (DER) could choose to treat the appellant's case as a layoff rather than

regrading him. s. 230.34(2), Wis. Stats. indicates the following related to layoffs:

(2) Employees with permanent status in class in permanent .. positions in the classified service ... may be laid off because of a reduction in force due to a stoppage or lack of work or funds or owing to material changes in duties or organization....

None of the circumstances under which a layoff could be instituted are present in the instant case. There is no indication that the appellant's reallocation and subsequent regrade was related to a reduction in force, lack of work or funds or material change in duties or organization. Additionally, it is not possible for respondent (DER) to go into another agency (DILHR) and make decisions concerning employe layoffs. These are decisions made by the management of an agency based on program and budget needs, and are in no way related to DER determining the appropriate classification level of a position.

Lastly, appellant raises the issue that respondent's letter informing him of the reallocation (Joint Exhibit #1) incorrectly states that "This action will have no [e]ffect on your current rate of pay." Appellant stated that his pay rate was red-circled as a result of the reallocation and he could not receive a pay increase as part of the pay range and individual pay adjustments associated with the implementation of the state's Comparable Worth program. Appellant argues that under a layoff scenario he might have been able to retain his ESA 2 level either in another ESA 2 position or in another classification in a counterpart pay range, and avoid being red-circled which in turn would make him eligible for the Comparable Worth pay adjustment.

These arguments are also not persuasive. First, his current rate of pay was not changed. Certainly, his potential for future increases might be




affected, but his current rate of pay was not. Secondly, treating this transaction as a layoff is not consistent with the statutes or administrative code, and has been justified only on the basis that the appellant might have fared better in a layoff.

Based on the above, the Commission concludes that use of the layoff provision is not appropriate and that respondent's action to regrade the appellant from ESA 2 to ESA 1 was correct.


ORDER

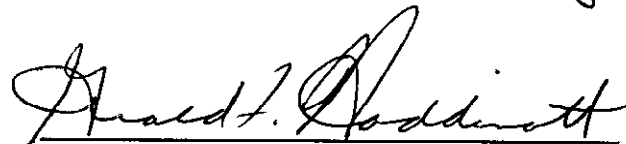
The action of the respondent to reallocate appellant's position and regrade him from ESA 2 to ESA 1 is affirmed and this appeal is dismissed.

Dated: March 21, 1990 STATE PERSONNEL COMMISSION

  
LAURIE R. MCCALLUM, Chairperson

GFH:rcr

  
DONALD R. MURPHY, Commissioner

  
GERALD F. HODDINOTT, Commissioner

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