

GLORIA SCHMIDT,

Appellant,

v.

Secretary, OFFICE OF  
THE SECRETARY OF STATE, and  
Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondents.

Case No. 89-0129-PC

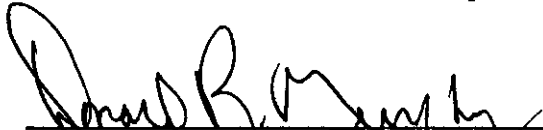
DECISION  
AND  
ORDER

After having carefully considered the various arguments raised by the appellant in her objections filed on December 7, 1990, and after having consulted with the hearing examiner, the Commission adopts the attached Proposed Decision and Order as the final Decision and Order in the above matter.

Dated: January 11, 1991 STATE PERSONNEL COMMISSION

  
LAURIE R. MCCALLUM, Chairperson

KMS:kms

  
DONALD R. MURPHY, Commissioner

  
GERALD F. HODDINOTT, Commissioner

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PROPOSED  
DECISION  
AND  
ORDER

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

1. Whether respondents' decision denying the request for reclassification from Program Assistant 3 to Program Assistant 4 was correct?
2. If not, what is the appropriate effective date of reclassification.

#### FINDINGS OF FACT

1. The class specifications for the Program Assistant 3 (PA 3) and PA 4 classifications include the following definitions and work examples:

##### **PROGRAM ASSISTANT 3**

This is paraprofessional work of moderate difficulty providing a wide variety of program support assistance to supervisory, professional or administrative staff. Positions are delegated authority to exercise judgment and decision making along program lines that are governed by a variety of complex rules and regulations. Independence of action and impact across program lines is significant at this level. Positions at this level devote more time to administration and coordination of program activities than to the actual performance of clerical tasks. Work is performed under general supervision.

#### PROGRAM ASSISTANT 4

This is paraprofessional staff support work of considerable difficulty as an assistant to the head of a major program function or organization activity. Positions allocated to this class are coordinative and administrative in nature. Positions typically exercise a significant degree of independence and latitude for decision making and may also function as leadworkers. Positions at this level are differentiated from lower-level Program Assistants on the basis of the size and scope of the program involved, the independence of action, degree of involvement and impact of decisions and judgment required by the position. Work is performed under direction.

#### PROGRAM ASSISTANT 3 - WORK EXAMPLES

Prepares reports, research project data, budget information, mailing lists, record keeping systems policies and procedures, training programs, schedules and generally oversees operations.

Plans, assigns and guides the activities of a unit engaged in the clerical support of the program assigned.

Develops and/or revises selected policies and procedures affecting the administration of the program.

Answers questions regarding the program or division via telephone, correspondence or fact-to-face contact.

May serve as an Assistant in charge of secretarial and administrative tasks in an operation handling cash procedures, equipment orders, inventory, program preparation, pricing, etc.

Composes correspondence, maintains files of program related data, sets up schedules and performs any related administrative support function necessary to the operation of the program.

May be in charge of public relations, preparing and sending out pamphlets, brochures, letters and various program publications.

#### PROGRAM ASSISTANT 4 - WORK EXAMPLES

Plans, assigns and guides the activities of a unit engaged in current projects or programs.

Researches and produces, as recommended by federal regulations and through the direction of an immediate supervisor, necessary data and information to prepare grant applications based on federal, state and local funding regulations.

Interprets rules, regulations, policies and procedures for faculty, other employers and the public.

Prepares various informational, factual and statistical reports.

Assists in the development and revision of policies, laws, rules and procedures affecting the entire program or operation.

Coordinates units within the department, between departments, or with the general public, in an informative capacity for a variety of complex matters.

Conducts special projects; analyzes, assembles or obtains information.

Prepares equipment and material specifications, receives bids and authorizes the purchase of an operating department's equipment, material and supplies.

Analyzes, interprets and prepares various reports.

Administers and scores admission and placement tests; administers nationally scheduled examination; confers with applicants regarding test interpretations.

2. At all times relevant to this matter, the appellant has been employed in the Office of the Secretary of State and supervised by Robert Ritger, Corporations Division Administrator.

3. In 1984, the appellant was promoted from a position as an annual report specialist to the position of a charter document specialist. The position was downgraded from PA 3 to PA 2 for training and development purposes.

4. Training in charter documents was provided to the appellant by Harold Grothman, Corporations Counsel for the Office of the Secretary of State.

5. Effective December 22, 1985, the appellant's position was reclassified from PA 2 to PA 3. This classification occurred as a result of an office-wide review of position classifications conducted by the Department of Employment Relations.

6. In a memo dated October 7, 1985, Donna Manly, Deputy Secretary of State, described the reclassification procedures which applied to employees of the Office of the Secretary of State. The appellant received a copy of the memo, which read in part:

Reclassification action may be initiated by a supervisor or by an employee. If the request is initiated by the employee, the employee should request consideration of a reclass to a specified classification in writing and direct that request to his or her supervisor. Within 30 days of receipt of the request, the supervisor will provide the agency's personnel officer with the necessary materials for the personnel officer to make an agency evaluation. Materials submitted to the personnel officer include:

--A copy of the employee's written reclassification request.

--a current position description. If the employee and the supervisor disagree on the duties outlined in the position description, both position descriptions should be submitted.

--A list of other employees performing similar work, if any.

--Justification of denial or support for the reclass request. If the supervisor supports the reclass request, justification for the reclass must be provided and the supervisor must outline the duties which changed from the previous position description. If the supervisor does not support the reclassification request, the supervisor must indicate why the employee is not eligible. If the reasons the supervisor does not support the request are performance-related, documentation of unsatisfactory performance must also be submitted.

\* \* \*

The effective date of the reclassification is the date that the agency's personnel officer receives the above information.

7. Pursuant to 1985 Wisconsin Act 338, effective July 1, 1986, the Office of the Secretary of State was granted the authority to offer expedited service for filing documents and obtaining certified copies and to charge additional fees for providing such expedited service.

8. The expedited service program policy required that any request received under the program by 1:00 p.m. each day be processed by 4:00 p.m. the same day.

9. Appellant was given responsibility to oversee the expedited service program. When Robert Karis was hired in November of 1986 to fill the position of Expedited Service Specialist, his position was shown on the organization chart as reporting to the Charter Document Specialist.

10. The appellant's expedited service program responsibilities were accurately described in her performance evaluation for the six-month period commencing January 1, 1988, which included the following standard/objective:

As senior collaborator in the implementation of [the Expedited Service Program], assist in development of operational procedures; provide close technical support to the Expedited Service Specialist by appropriate training and adequate guidance in filing documents; by problem-solving incidental to the conduct of the program, and by assuming responsibility for its operation in the absence of the Expedited Service Specialist.

11. Before Donna Manly's departure from the Office of the Secretary of State in June of 1987, the appellant understood from Ms. Manly that appellant's position description would be updated to reflect her expedited service program responsibilities.

12. Ms. Manly directed the appellant to keep a log of the time she spent on expedited service duties. In August of 1987, the appellant presented the log to her supervisor and asked that her position description be updated.

13. Because she had not received an updated position description, the appellant again asked her supervisor on both November 6 and 8, 1987, about the appropriateness of her position description. On November 10th, the appellant informed Paul Hanks, respondent's Office Manager, that she had not received the updated position description.

14. Commencing in January of 1988, the respondent reassigned appellant's responsibilities in the expedited service program.

15. In January of 1988 and March of 1988, the respondent provided the appellant with drafts of a revised position description. The March draft made no reference to any expedited service responsibilities.

16. In January of 1989, the appellant asked her supervisor, verbally, for reclassification of her position.

17. On April 18, 1989, the appellant filed a memo with her supervisor, Mr. Ritger, which stated:

This is a follow up to my verbal request, January 1989, to reclassify my job position to a PA 4.

My work responsibilities have changed considerably over a year ago which is sufficient to warrant (sic) a reclassification.

This request is being submitted pursuant to the memo dated October 7, 1985 entitled Reclassification Practices for the Office of the Secretary of State.

18. After receiving this memo, Mr. Ritger prepared an updated position description for the appellant's position, and submitted the signed position description on June 13, 1989, to Mr. Hanks along with a cover memo and comments regarding changes identified in the position description.

19. Mr. Hanks has effective receipt authority for receiving a reclassification request.

20. The appellant's revised position description sets forth the following duties and responsibilities:

30% A. Examination of Articles of Incorporation

A1. Examine articles of incorporation of domestic business, nonstock and service corporations. Such examination is to determine if the document "conforms to law" (ss. 180.86(2), 181.67(2)(a) and 185.82(2)(a), Wis. Stats.), and that the requisite filing and recording fees have been furnished.

A2. Take cognizance of corporate name conflicts appended to the articles to be examined, as well as words or phrases inappropriate for use by a corporation forming under Chapters 180, 181 or 185.

A3. Compute filing, recording and service fees as established by statute. Authorize refunds of overpayment of fees in excess of \$2.

A4. Draft and prepare written communications to detail deficiencies observed in articles of incorporation submitted for filing, and set forth the actions necessary to put the document in acceptable order. Establish verbal contacts with firms and individuals as may be useful to seek explanations or to effect adjustments to documents to make them acceptable.

50% B. Examination of Other Charter Documents

B1. Other charter documents regularly reviewed by this position are amendments and restated articles of incorporation, and may intermittently include statements of intent to dissolve, articles of dissolution, and change of registered office/agent/agent's address. Such examination is to determine if the document "conforms to law" (detailed under A1. above), and that the requisite filing and recording fees have been furnished.

B2. Research the existing file of charter documents and other processing records in instances where the data extracted will aid in determining if a document under examination is acceptable, including any status condition that would preclude the filing. Records utilized in this research may include indexes to identify a corporation's status, identification number, designated registered agent/office, credit memos (or unapplied credits) and other agency records.

B3. Reconstruct an audit trail for filings and remittances in instances where documentation is incomplete or lacking.

B4. Apply the procedures set in items A2, 3 & 4, above.

10% C. Filing Applications to Rescind Involuntary Dissolution

\* \* \*

4% D. Program Administration and Training of Staff

\* \* \*

3% E. Resolution of Problem Filings

\* \* \*

3% F. Policy Recommendations

21. The appellant does not have any leadwork responsibilities.

22. The effective date policy established by the Department of Employment Relations is found in §332.060 of the Wisconsin Personnel Manual, which provides, in part:

Both delegated and nondelegated reclassification regrade actions and reallocation regrade actions taken under ER-Pers 3.01(e), (f) or (g) will be made effective at the beginning of the first pay period following effective receipt of the request.

\* \* \*

Effective receipt of a request may be made by any office within the operating agency that has been delegated, in writing, effective receipt authority by the appointing authority. A request may be initiated in one of the following three ways through submission of appropriate documentation:

\* \* \*

2. If a position incumbent requests his/her supervisor to review the level of the position and the supervisor takes no action or declines to initiate further action, the required documentation from the incumbent is a written request which includes a statement of the events (including the dates when the events took place) which have occurred in regard to the request for a classification review.

23. The employes of the Office of the Secretary of State were never expressly advised of the existence of §332.060 of the Wisconsin Personnel Manual.

24. In March of 1989, the Department of Justice issued an informal opinion to the Office of the Secretary of State regarding the level of scrutiny



to be applied when reviewing documents filed with the Office. The opinion stated, in part:

I conclude that the secretary of state's authority to reject a document presented for filing is limited to rejecting documents which "do not conform to law." That phrase does not allow the secretary of state's office to go behind the face of the document to determine compliance with any or all laws affecting corporations. It simply means that the document as presented must comply with those statutes which specifically require certain information to be included in that document.

25. After receiving this opinion, the respondent prepared a set of guidelines for examining domestic charter documents and annual reports. The guidelines, which were issued to the appellant and her co-workers on May 1, 1989, reflect the new scope of review consistent with the informal opinion of the attorney general:

The most important result of the AG opinion is that we now will only be reviewing documents to ascertain if they meet the filing requirements--not whether they conform to every statutory provision of Chapter 180 (or 181, etc.). For example, the filing requirements for a domestic amendment are contained in sections 180.53, 180.54, 180.86, and 180.87(1)(b), Stats. Another statutory "requirement" found in Chapter 180 which has an effect on amendments, but which is not specifically a filing requirement, is found in section 180.41(1). This section prohibits the offices of the president and secretary of a corporation being held by the same person. However, our review process is not concerned with this requirement, because it affects the internal organization of the corporation, but not the document per se. Should a corporation have the same person holding both offices, it is up to the shareholders, officers or directors or someone else to raise an objection through other channels. All we should be concerned about is that a president (or vice-president) and a secretary (or assistant secretary) has executed the document.

26. In comparing the appellant's duties in 1986 and in mid-May of 1989, the major changes were that she had gained responsibility for examining amendments to articles of incorporation, restated articles of incorporation and applications to rescind involuntary dissolution, but the degree of scrutiny used by the appellant when examining documents had been reduced due to the change in review policy away from a substantive review of many of the provi-

sions of the document to a facial review in terms of compliance with specified filing requirements.

27. Positions which the parties used as a basis for comparison to appellant's position include the following:

a. Office of Secretary of State, Foreign Program Specialist position filled by Phyllis Blankenheim. This PA 3 position has the responsibility for examining foreign charter documents and foreign annual reports, resolving problems with such filings, directing support staff in processing routine foreign annual reports and developing policy recommendations. The Blankenheim position is roughly comparable to the appellant's position for classification purposes.

b. Office of Secretary of State, Annual Reports Specialist position filled by Debra Thompson. This PA 3 position has the responsibility for resolving problem annual report filings (41%), acting on requests for involuntary dissolution of corporations (6%), administering the annual report program and directing staff (27%), interrupting filing for a corporation in default of fee payment (5%), examining routine annual reports (10%), developing policy recommendations (5%), and public contact (6%). The annual reports are less complicated to examine than the charter documents examined by the appellant in that there are fewer points to check. The Thompson position oversees the work performed by two Annual Reports Assistants, monitors that work by verifying the accuracy of the data entered by the assistants on CRIS, prepares statistics regarding the accuracy of their work and trains the two assistants and any other employees who may be working in the area on a short-term basis. Due to its responsibility to oversee two other positions, the Thompson position is roughly comparable to the appellant's position for classification purposes.

c. Office of the Commissioner of Securities, two PA 3 positions. One position, filled by Nancy Jackson, spends 50% of the time reviewing and analyzing securities registration filings and investment company sales reports to determine compliance with administrative rules and statutes, accuracy of fees, computations and completeness which includes carrying out related telephone and written correspondence and file maintenance. Ms. Jackson's other duties include 25% receptionist responsibilities and 15% program support for office publications. The second position, filled by Majorie Butler, spends 35% of the

time administering provisions of the Wisconsin Franchise Investment Law relating to renewal applications, by examining renewal applications for compliance with statutes, rules and guidelines and reviewing financial statements to determine soundness of capital structure by using a prescribed ratio analysis. Ms. Butler's other duties include 20% answering public inquiries relating to the franchise law, 20% program support for Franchise Investment Registration Program including the review of advertising materials and reviewing petitions for release of funds from escrow accounts, 10% maintaining registration files including the preparation of routine correspondence and computer generated reports and 10% processing initial franchise registration and amendment applications, including review to insure legal prerequisites have been met. The Butler position, which has the Franchise Investment Law responsibilities, has public contact and program support activities which equate to the appellant's level of responsibility. However, the Jackson position also performs some clerical responsibilities that are at a lower level than the appellant's duties.

d. Office of Secretary of State, Corporation Registration Information System (CRIS) Specialist position filled by Mary O'Connell. This PA 4 position has general responsibility for the effective and efficient operation of the on-line computer system used by the Corporations Division, for coordinating CRIS with existing corporation programs, administering CRIS, coordinating and conducting training in CRIS operations for Secretary of State staff and others and coordinating CRIS activities with the Wilson Street Regional Computing Center in terms of resolving software and hardware problems analyzing operations for the enhancement of data processing operations and making operational changes. The O'Connell position is far more coordinative and administrative than the appellant's position.

#### CONCLUSIONS OF LAW

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

2. The appellant has the burden of establishing the respondent's decision not to reclassify her position from Program Assistant 3 to Program Assistant 3 was incorrect.

3. The appellant has not sustained her burden of proof.
4. The respondent's decision was not incorrect.

### DISCUSSION

The two issues for hearing in this matter focus on the proper classification of the appellant's position and, if reclassification is warranted, the proper effective date of the reclassification. The appellant contends that the effective date should be between August and November of 1987. The respondent contends the effective date should be the beginning of the pay period following the June 13, 1989 receipt by Mr. Hanks of the reclass materials from Mr. Ritger. During the 22 month period between August of 1987 and June of 1989, the appellant's position lost its responsibility for the expedited service program and had the level of scrutiny for document review substantially altered. Therefore, the initial focus of the Commission's analysis in this matter has to be on determining the appropriate time frame for evaluating for the duties and responsibilities assigned to the appellant's position.

#### Effective date

The appellant received a very specific memo in 1985 (finding of fact 6) which set forth the procedures she was to follow in order to obtain reclassification of her position, either with or without the support of the supervisor. The memo clearly indicated that the employee could initiate the procedure by directing a written request to the supervisor. The memo provided that the supervisor was then to file specified materials with the agency's personnel officer within 30 days. The memo also noted that the effective date was when the personnel officer received the specified materials.

Portions of the 1985 memo were inconsistent with the effective date policy established by the Department of Employment Relations as found in §332.060 of the Wisconsin Personnel Manual (finding of fact 22). According to the DER policy, the effective date is the beginning of the first pay period following receipt by the agency's personnel officer of either 1) an updated position description and written reasons where the supervisor has requested reclassification review, or 2) a written request, including a statement of events, from the incumbent where the supervisor has taken no action on the incumbent's request or declines to support the request. DER's policy makes no men-

tion of an amount of time within which the supervisor is to forward a request to the personnel officer.

The record in the present case shows the appellant made periodic verbal requests that her position description be updated to reflect revisions in her duties but the appellant did not make a written request of either her supervisor or the agency's personnel officer for reclassification of her position until April 18, 1989. The documents required by §332.060 were not received by the personnel officer until June 13, 1989.

The Commission has previously upheld the effective date policy found in §332.060 of the Wisconsin Personnel Manual as an appropriate basis on which to make decisions as to an effective date. Popp v. DER, 88-0002-PC, 3/8/89. In this case, DER's policy was effectively modified by Ms. Manly's 1985 memo which was provided to the appellant and was relied on by her when she finally submitted a written reclassification request on April 18, 1989. That request specifically referred to the 1985 memo. As a consequence, the appellant was entitled to rely on the language of the memo which indicated that the effective date would be no later than 30 days from the date the supervisor received the written request. Appellant's prior discussions with her supervisor in 1987 and 1988 about updating her position description were not specific enough to constitute a formal request for a classification review because they clearly did not comply with either DER's effective date policy or the 1985 memo. The appellant made a verbal request for reclassification in January of 1989 but this, too, did not meet the requirements of either DER's policy or the 1985 memo. There is no evidence the appellant's supervisor had given the appellant an indication prior to the April 18, 1989 memo that a reclassification request was being processed for her position and that, as a consequence, the appellant did not need to do anything further. Compare, Guzniczak & Brown v. DER, 83-0210, 0211-PC, 5/13/87; petition for rehearing granted and decision reaffirmed, 6/11/87.

The above analysis indicates that if the appellant's position is to be reclassified, the proper effective date is May 18, 1989, the 30th day after the appellant filed her written reclassification request with her supervisor. The Commission must therefore focus its reclassification analysis on the duties as-

signed<sup>1</sup> to the position and being performed on that date. The Commission may not base its classification analysis on duties which had been performed earlier but were no longer assigned to the position by May 18th. Here, the findings of fact show the appellant was no longer performing oversight responsibilities over the expedited service program in May of 1989. The appointing authority exercised its discretion in January of 1988 by removing the oversight responsibilities for the expedited service program from the appellant. The second area where the appellant's responsibilities changed was as to the scope of the document examination. This change was imposed throughout the office by a memo dated May 1st, just 2 weeks after the appellant had submitted her written reclassification request to her supervisor but more than 2 weeks before the effective date of any reclassification that might result from that request.

#### Classification analysis

In analyzing this matter it is important to remember the appellant's responsibility for examining charter documents has been limited to determining whether the documents include certain information specified in several statutory provisions. Approximately half of the documents reviewed by the appellant utilize a form prepared by the Office of the Secretary of State. Others in the office, classified at the Clerical Assistant 2 level, check on name availability to make sure there is no conflict between an existing or reserved corporate name and the name identified on newly filed articles of incorporation. The actual review carried out by the appellant is, in many respects, similar to using a checklist. Her review requires knowledge of a limited number of statutory requirements. For example, articles of incorporation for a business corporation must include such specifics as a corporate name, a purpose clause, the identity of the draftsperson, the number of directors, the name and address of the registered agent and the number and types of shares.<sup>2</sup>

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<sup>1</sup>The appointing authority has the discretion to assign and reassign duties. §230.06(1), Stats.

<sup>2</sup>The Commission's conclusions as to the nature of the review responsibility assigned to the appellant are derived from the language of the guidelines issued on May 1, 1989. Mr. Grothman also described the scope of the document review in his testimony. His description of the review process suggested the examiner was required to have a much more extensive knowledge of the law relating to corporations. Mr. Grothman's testimony in this regard is not credible in light of the responsibilities actually assigned to the charter document specialists as reflected by the guidelines.

The characteristics identified in the class specifications which differentiate the PA 3 from PA 4 classification are:

1. Level of difficulty, i.e. moderate (PA 3) vs. considerable (PA 4).
2. A PA 3 is delegated authority to exercise judgment and decision making along program lines that are governed by a variety of complex rules and regulations while a PA 4 serves as "an assistant to the head of a major program function or organization activity."
3. A PA 4 performs work which is "coordinative and administrative in nature."
4. The PA 4 definition specifically mentions functioning as leadworker while the PA 3 definition does not.
5. The PA 4 definition also lists the following bases for distinguishing that class level from the lower levels: size and scope of the program involved; independence of action; degree of involvement; impact of decisions; and, judgment required.
6. The PA 3 performs under general supervision while the PA 4 works under direction.

In addition, the work examples at the PA 4 level indicate a significantly higher level of independence and discretion.

Nothing in the specifications specifically places the appellant's position at the higher level. She is not identified as an assistant to the head of a major program function, nor does the appellant perform leadwork responsibilities or work which is "coordinative and administrative in nature." However, the language of PA 3 also does not specifically include the appellant's position.

Because of the general language of the PA series, it is particularly important to consider comparable positions.

There are reasonably good comparables found within the Office of the Secretary of State.

The Debra Thompson position is similar to the appellant's in that its duties relate to the review of documents filed with the Office of the Secretary of State although that work is clearly less complex than that performed by the appellant, as indicated by the fact the Annual Reports Assistants are classified at the PA 1 level. Depending on the type of corporation involved, the annual report review may entail looking to see whether the corporation has indicated whether it engaged in any activity during the prior year, any changes the

names and addresses of principal officers and directors or in the registered agent, and then entering the changes on CRIS. Approximately 30% of the annual reports must be returned to the filer for corrections. The Thompson position description shows she spends little of her time examining routine annual reports (10% responsibility for "examination of routine annual reports and other corporation documents submitted with annual reports"). The bulk of Ms. Thompson's time is spent 1) resolving problem annual report filings, which may require her to research records contained on CRIS as well as on microfilm and to reconstruct an audit trail, and 2) administer the annual report program and direct staff, which includes training, monitoring work, suggesting changes to reduce errors and establishing work schedules. The difference in the complexity of the charter documents versus annual reports is offset by the fact Ms. Thompson directs the work of the two Annual Reports Assistant positions which perform the bulk of the actual document review and data entry. Much of Ms. Thompson's duties compare with the following PA 3 work example: "Plans, assigns and guides the activities of a unit engaged in the clerical support of the program assignment."

The closest comparison may be with the Blankenheim position, which, according to a 1986 position description had responsibility for examining foreign charter documents.

The record also includes position descriptions for two positions classified at the PA 3 level and found in the Office of the Commissioner of Securities. These positions perform some document review, although there is no basis on which to assess the depth of that review other than the characterization in the position descriptions as reviewing either renewal applications for franchise offering circulars or securities registration filings and sales reports to determine compliance with rules and statutes. The Butler position, which has the Franchise Investment Law responsibilities, has other public contact and program support activities which equate to the appellant's level of responsibility. However, the Jackson position also performs clerical responsibilities that are at a lower level than the appellant's duties.

The record contains evidence relating to only one PA 4 position. That position is filled by Molly O'Connell. Ms. O'Connell's duties do not include any responsibility for document examination. Her responsibilities cover the CRIS program for the Office of the Secretary of State and clearly include substantial



interaction with other departments in that she coordinates the on-line data base used by the Corporations Division for nearly all of its records with the computer center maintained by another agency. The CRIS specialist position is responsible for coordinating and conducting the training for staff on using the CRIS system. Ms. O'Connell's responsibilities clearly fit within the "coordinative" duties described in the PA 4 class definition and work examples. In addition, the CRIS specialist position has more independence and greater impact than the appellant's position.

In her brief, the appellant contends Ms. O'Connell's position is misclassified because her duties are "far more similar to tasks described by the Management Information Specialist series than to tasks described by the Program Assistant series." Because the Management Information Specialist class specifications are not part of the record and the respondent has not agreed that the O'Connell position is misclassified, the Commission has no basis on which to adopt the appellant's contention.

The appellant failed to produce evidence of any other PA 4 position. The absence of any comparable position at the higher level makes it very difficult for the Commission to conclude that the respondents' decision not to reclassify the appellant's position to the higher level was incorrect, especially in light of the general nature of the language of the Program Assistant position standard.

It may be that at one time, before the removal of her responsibilities over the Expedited Service Program and before the simplification of the document examination process, the appellant was assigned responsibilities which would have justified the reclassification of her position to the PA 4 level. However, the record does not support reclassification based upon those duties performed in May of 1989.

Appellant also contends that the Office of the Secretary of State failed to maintain accurate position descriptions, failed to provide staff with performance standards and failed to evaluate employee performance on an annual basis. While the evidence offered at hearing supported these contentions, the respondent's conduct in this regard is not reviewable by the Commission and does not provide a basis for granting the requested reclassification.

ORDER

The respondents' decision denying the reclassification of the appellant's position is affirmed and this matter is dismissed.

Dated: \_\_\_\_\_, 1990      STATE PERSONNEL COMMISSION

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LAURIE R. MCCALLUM, Chairperson

KMS:kms

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DONALD R. MURPHY, Commissioner

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