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ELLEN A. SANDOW,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 94-0180-PC

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FINAL
DECISION
AND
ORDER

INTRODUCTION

A proposed decision and order was issued in the above-noted decision on January 5, 1995. Ms. Sandow submitted written arguments to the full Commission by letter dated February 1, 1995. DER filed a written response on February 6, 1995.

The Commission considered the arguments submitted by the parties, portions of the hearing tapes were reviewed and the hearing examiner was consulted. Based on the foregoing, the Commission determined the proposed decision required amendments for clarification. The full Commission also determined it was unnecessary to address the question of whether the tasks listed in Ms. Sandow's position description (PD) should be divided equally because the decision outcome is the same even if the contrary percentages advanced in hearing testimony were adopted.

The Commission specifically rejects Ms. Sandow's argument to the full Commission that Mr. Van Gemert misunderstood the questions posed to him at hearing regarding his drafting of her PD. The questions were clarified each time he appeared to misunderstand. The preponderance of the evidence would indicate that his responses were reliable.

As a final introductory note, the Commission did not consider Ms. Sandow's submission to the full Commission of time percentages for tasks listed in her PD. Her estimates are extra record and improperly brought to the Commission's attention.

DISCUSSION

Survey of Library-Related Positions

The Department of Employment Relations (DER) undertook a survey of 260-270 positions performing library-related duties. Mr. Cornell Johnson, a DER classification expert, conducted the survey and made the final classification decision for all included positions. Ms. Sadow's position was included in the survey. She received notice on 6/14/94, that her position had been reallocated effective 5/29/94, and she timely filed this appeal.

Details Regarding the LSA Class Spec - as written

The classification specification (Class Spec) for library services assistant (LSA) was written by Mr. Johnson. It contains three classification levels: LSA-Assistant, LSA-Senior and LSA-Advanced (the later two of which are hereafter referred to as LSA-Sr. and LSA-Adv.).

The Class Spec for LSA-Sr. is shown below.

This is senior level work for positions which perform library services assistant work. The work at this level is performed under general supervision and the employees in this classification level are given the latitude to make decisions which require significant knowledge of library operations and services. In addition to the activities performed at the lower level, employees may perform the following.

Examples of work performed:

- Sr1. Perform copy cataloging in a variety of formats and languages using records created by libraries other than Library of Congress.
- Sr2. Under supervision, assign LC call numbers.
- Sr3. Compile, monitor and prepare a public services and serials statistical reports on a weekly basis. Claim missed and overdue materials and contact publishers, vendors and outside service providers regarding problems.
- Sr4. Process invoices for payment.
- Sr5. Independently perform copy cataloging and resolve conflicts in title forms in the selection of copy for cataloging.
- Sr6. Initiate and process claims for missing documents.
- Sr7. Function as liaison with publishers, vendors, outside service providers and administrative offices service supervisors when problems occur with invoices. Request permission to return materials.
- Sr8. Input invoices on automated systems matching the correct order record with books as added volumes are received. Input credit information into automated system.

- Sr9. Select materials for binding, process materials and receive materials.
- Sr10. Make recommendations to the librarian for selection of materials for the collection, i.e. reference or IMC.
- Sr11. Prepare interlibrary loan requests for electronic transmission.
- Sr12. Search WISCAT and other bibliographic databases to verify interlibrary loan requests.
- Sr13. Monitor circulation functions in institution libraries.
- Sr14. Assist library patrons in the use of reference materials in print and CD ROM format.
- Sr15. Maintain the circulation process at the Reference and Loan Library.
- Sr16. Order, receive, and keep budget and collection development statistics for all types of material purchases for the Reference and Loan Library Collection.

The Class Spec for LSA-Adv. is shown below. (Emphasis added.)

This is the advanced level for positions which perform library services assistant work. Positions allocated to this classification are responsible for the performance of tasks identified as professional library functions for a significant amount, but less than a majority, of time. The work performed requires extensive knowledge and experience in library practices and procedures and the incumbents function with a significant degree of independence in all aspects of decision making and problem solving. Positions at this level may also function as leadworkers. The work is performed under general supervision.

Examples of work performed:

- Adv1. Review and correct authority records that are up-linked into local database.
- Adv2. Provide documents reference and reader advisor service using various paper and electronic resources, i.e. CD-ROM.
- Adv3. Maintain bibliographic record of department's holdings including State, Federal, agricultural publications, maps and all other materials received in the collection.
- Adv4. Provide reference service to faculty, staff, students, community users, and agency staff. Provide basic information/instruction about library services and location of materials.
- Adv5. Coordinate subunits in libraries, i.e. reserve book room, periodical room, bindery operations, etc.
- Adv6. Create original cataloging records for materials in a variety of formats and languages.
- Adv7. Assign call numbers and/or subject headings to cataloging records lacking one or both.
- Adv8. Resolve complex cataloging problems.
- Adv9. Serve as a resource person or trainer for a functional area or program.
- Adv10. Provide reference, acquisition, and government services in the interlibrary loan process.

Nature of the Classification Dispute

Ms. Sadow's position meets the following requirements of the LSA-Adv. description in the Class Specs. Her work requires extensive knowledge and experience in library practices and procedures. Her position functions with a significant degree of independence in all aspects of assigned decision making and problem solving. Further, she performs her work under general supervision.

The dispute is whether Ms. Sadow's position performs professional library functions for a significant amount of time, as required to meet the LSA-Adv. level. Both underlined terms are undefined in the Class Specs.

Mr. Johnson testified that when he wrote the LSA-Adv. description he intended by using the term "significant amount . . . of time" to mean between 25-49%. He indicated the term created a 25% minimum of performing professional tasks, a cutoff based upon the State Personnel Manual, Chapter 332, s. 223.040, C.,2,b,1), which defines "significant portion of the position", a term used in reclassification cases, as "more than 25%" of the position's time.

Mr. Johnson indicated that the term "professional library functions" as used in the LSA-Adv. description was intended to be restricted to the following four areas: 1) Cataloging, to include only original cataloging at the advanced level and not to include merely "copy cataloging" or amending an existing record after solving problems which exist with current records; 2) bibliographic activities; 3) acquisition activities; and 4) reference activities, to include only helping to identify specific types of resources which might be helpful to a particular patron's needs and not to include merely telling patrons where a particular item is in the library.

Appellant's Position¹

Ms. Sadow has worked in various positions at the UW Memorial Library (hereafter, the Library) since 1967. At the time of survey, she was in a position bearing the pre-survey classification of LSA-4. The duties of the surveyed position are shown in Exh. R-2, and summarized below.

¹ A portion of this section of the proposed decision was moved to the following section for clarification.

Time % Goals and worker activities.

- 50% 1. Retrospective conversion (Converting paper copy to machine-readable copy.) Tasks include:
* Oversee and provide technical support to classified and student staff working on Retro-conversion. Tasks include:
a) Hiring and training of student staff,
b) Training classified staff from other library departments,
c) Preparing a training manual for use by all staff working on Retro-conversion,
d) Working closely with appropriate staff in Central Technical Services (CTS) to help set policy and procedures to ensure correct cataloging practice and standards in the retro-conversion process,
e) Solving problems related to proper record creation for the complex series, and
f) Solving problems for all errors and complications that arise from the conversion of these records.
- 50% 2. Serve as technical liaison/consultant between CTS and User Services to resolve data base quality issues and act as a resource person for Circulation staff and patrons to interpret on-line records. Tasks include:
* Oversee the proper creation of provisional bibliographic records made by the staff in the Circulation Dept.
a) Oversee and perform data entry work to overlay a provisional record with a full OCLC bibliographic record.
b) Creates a full record in OCLC system when none exists. This requires using the on-line authority records to update to correct AACR-2 standards.
c) Assist in the training of new employees in the proper procedure for record creation for certain materials.
d) Answer complex questions from other staff members in regard to making on-line item records.

Professional library functions performed by Ms. Sadow's position.²

Section 1 of Ms. Sadow's PD - Potential Inclusion of Tasks b, d, e and f.

Retro-conversion is a form of cataloging. The section 1 tasks of Ms. Sadow's PD relate to retro-conversion and include a mix of professional and non-professional cataloging functions. Mr. Van Gemert and Ms. Zimmerman credibly testified that the following tasks in section 1 contained some degree of professional cataloging: Tasks b, d, e and f. Mr. Van Gemert estimated that Ms. Sadow's performance of tasks listed in section 1 of her PD involved 7.5-10% at

² This portion of the proposed decision has been revised to utilize time estimates given in testimony by Mr. Van Genert and Ms. Zimmerman.

the advanced level. Ms. Zimmerman estimated that between 5-10% of section 1 tasks were at the advanced level.

Section 2 of Ms. Sandow's PD - Potential Inclusion of Tasks b and d.

Mr. Van Gemert and Ms. Zimmerman both agreed that tasks b and d of section 2 of Ms. Sandow's PD, had potential inclusion for advanced level work. Task b) in section 2, relates to cataloging. This conclusion is supported by the definitions in Exh. R-5, as noted below in pertinent part.

CATALOGING. The process of describing "a work" and assigning a call number. Includes determining the main entry, describing the work, and assigning added entries, subject entries, and a call number. . . .

DATA CONVERSION. Converting or changing cataloging and patron data from a printed form into an electronic form to be used in an automated library system. The process is often called "retrospective conversion." . . .

DESCRIPTIVE CATALOGING: The aspects of cataloging concerned with the bibliographic description of a bibliographic item and the determination of headings, other than subject and form headings, under which the item will be represented in the catalog; the identification and description of the item.

RETROSPECTIVE CONVERSION The process of changing information from a printed format into a computerized format. Often refers to changing information from 3X5 catalog cards into the MARC format or another format.

MARC RECORDS: Machine readable catalog records. Cataloging records that conform to the national standard (ANSI Z39.2) for communicating and storing cataloging data in a computerized format. The MARC format is used by the Library of Congress and in most large micro-based automated library systems use non-MARC records which can cause problems in trying to upgrade these systems or to change systems.

OCLC: Online Computer Library Center, Inc. A large international cataloging utility or cataloging network based in Dublin, Ohio. The OCLC database includes over 26 million titles and is used and contributed to by nearly 14,000 libraries in 45 countries as a source of MARC records for cataloging, interlibrary loan, and contribute cataloging records to OCLC.

The time Ms. Sandow spends performing advanced level work in task b of section 2 of her PD already is included in the percentage of advanced-level work for section 1 of her PD. This specific conclusion was provided by Ms. Zimmerman's testimony.

Ms. Zimmerman felt task d) in the second section of Ms. Sadow's PD, involved some professional circulation library functions.³ For reasons discussed below, the examiner credited none of this PD task as LSA-Adv. level work.

Ms. Sadow gave a few examples of tasks performed under section 2, task d) of her PD. The first example occurs "on occasion" when the NOTIS terminal in the circulation area "locks up" due to a problem with the NOTIS record for a particular library item. Ms. Sadow has access to "unlock" the system which enables her to correct the record. She uses her knowledge of NOTIS, cataloging and circulation to correct the problems.⁴ The examiner was unpersuaded that this tasks involved advanced level work which was not already included in section 1 of her PD.

Ms. Sadow provided a second example of work she performs under task d) in in the second section of her PD. This example involves problems caused by duplicate bar codes, meaning the same computerized code tag is used for more than one separate library item. This task did not appear of such complexity as to warrant inclusion at the LSA-Adv. level.

Ms. Sadow also becomes involved when a library patron experiences difficulty locating a specific serial within the library's collection. This activity appears to meet the advanced level criteria. However, Ms. Sadow failed to provide any estimate of the time she spends performing this task.

The foregoing discussion of Ms. Sadow's performance of LSA-Adv. work is summarized in the chart below.

<u>PD Task</u>	<u>Maximum % Time</u>
<u>Reference</u>	<u>Spent at LSA-Adv. Level</u>
section 1	10.0%
section 2, task b	0%
section 2, task d	<u>0%</u>
	10.0%

³ The term "circulation" is defined in Exh. R-5 as: "The process of checking out and checking in library materials.

⁴ The term NOTIS is defined in Exh. R-5, as shown below.

The integrated automated library system used by the UW System and affiliated libraries such as the State Historical Society Library.

PDs DER offered as positions properly classified at the LSA-Adv. level

Abrohams' PD: DER offered the PD of Beth Abrohams' (Exh. R-10), as an example of a position correctly classified at the LSA-Adv. level. This position functions in an art library which Mr. Johnson viewed as a "specialized area". The PD tasks identified by Mr. Johnson as LSA-Adv. level work are shown below along with his estimates of the time spent performing the advanced task.

<u>Time %</u>	<u>Goals and worker activities</u>
7%	A. ADMINISTRATION. A1. Manages the library in the absence of the Director and is accountable to the General Library System for its operation and reader services, representing the Art Library at meetings and in providing access for readers and interacting with staff from other libraries and campus departments. Oversees the daily public service functions of the library and reviews requests for specialized loans and the teaching and research use of non-circulating and rare or unique materials.
12%	B. PUBLIC SERVICES: CIRCULATION 7 RESERVE SYSTEMS, REFERENCE, INTERLIBRARY LOAN AND DOCUMENT DELIVERY. B4 & B5 are pertinent. B4: Serves as first contact reference resource for students and staff, demonstrating pertinent bibliographies, directories, handbooks, indices and methodology, often in languages other than English. B5. Serves as resource person for interlibrary loan networks and for book and document delivery services on campus, including bibliographic verification and problem solving using catalogs, bibliographies and indices.
<hr/> 19%	

Mr. Johnson was asked to explain how the Abrohams' position qualified at the LSA-Adv. level when the time percentages only added up to 19%, rather than more than 25%, as required pursuant to his hearing testimony. He indicated the difference was due to the place this position holds in the organizational hierarchy and the fact that the work is performed in a "specialized library", factors he acknowledged were not mentioned in the LSA Class Spec.

Mr. Johnson indicated the difference also was due to the degree of independence under which Ms. Abrohams performed LSA-Adv. level duties.

His approach is not authorized or supported by the LSA Class Spec. The factors of "general supervision" and "significant degree of independence in all aspects of decision making and problem solving" are separate requirements at the LSA-Adv. level. They are not factors mentioned in the LSA Class Spec which may be used to increase the determination of how much time a position spends performing professional library functions.

Brinson PD: DER offered Susan Brinson's PD as an example of a position properly classified at the LSA-Adv. level. The professional library tasks performed include reference work and original cataloging. The PD tasks and related time percentages for the LSA-Adv. tasks are shown below.

<u>Time %</u>	<u>Goals and worker activities</u>
12%	A1. & A2.: A1. Design and implement a smooth and efficient work flow for the receipt and processing of new monographs. A2. Develop, implement and evaluate policies and procedures for the receipt and processing of new monographs.
15-18%	B. Reference and information: Provide reference service to the students, faculty, and staff of the University of Wisconsin-Madison, patrons from other campuses, and the general public. Reference service includes both answering specific questions and personalized hands-on instruction in identifying and using library materials. Responsibilities include introducing undergraduates to the materials available in the library and then guiding them in finding the material they need to complete their research. All tasks listed here count at the LSA-Adv. level, and are included in the 15-18% time estimate. B1. Conduct interviews with patrons to identify their reference needs and determine the library resources that will meet those needs. Consult with and/or refer to a librarian questions with complex research needs. B2. Use basic printed reference materials to assist patrons in locating factual information. Explain use of these materials to patrons to enable them to use the sources on their own. B3. Instruct patrons in the use of basic resources in the UW-Madison Electronic Library, which includes the online catalog and bibliographic, reference, and full-text databases, to acquire information which will meet their needs. B4. Train library users how to operate a variety of equipment, such as computer workstations,

microform readers and printers, photocopy machines, and debit card equipment.

- B5. Acquaint undergraduates with the facilities and services of the library and assist students to become aware of the information resources available in the library through orientation activities, such as tours and one-on-one assistance at the reference/information desk.
- B6. Serve as mentor to student assistants assigned to reference/information team.

27-30%

Drugan PD: DER presented Sharon Drugan's PD as an example of a position properly classified at the LSA-Adv. level. The area of professional library services she performs relate to reference and public information services. The specific PD tasks are shown below.

<u>Time %</u>	<u>Goals and worker activities</u>
2%	A1. Manages the library as a resource person in the absence of the director and is accountable for its operation; represents the Mathematics Library in providing information and access to library users and interacts with staff from other campus departments and libraries.
25%	B. Reference and public information services: Provides comprehensive reference and mathematical information services to the faculty and staff of UW-Madison and other UW campus users as well as users from government agencies, industries and the general public. All tasks B1 through B9 count as LSA-Adv. and are included in the 25%. B1. Responds to reference questions, verifies citations through use of mathematical, statistical and computer science materials as well as general reference materials in all formats. Evaluates questions and determines if they should be referred. Determines location or status of library materials that cannot be found by patrons. B2. In the absence of the librarian, answers mathematical questions which may relate to materials written in non-English languages. B3. Instructs patrons in the use of reference tools and resources in all formats, such as the computer and card catalogs, CD-ROM disks, local area networks (LANs), and equipment such as microform readers, copy machine, public computers, printers, workstations, etc. B4. Responds to telephone, paper mail/e-mail inquiries from patrons or staff in other libraries regarding

- holdings, cataloging errors, availability of wanted items, library hours, citation verifications, etc.
- B5. Serves as resource person for various interlibrary loan networks and document delivery operations on campus. This includes filling requests for library materials as well as problem solving and bibliographic verification by using computer/card catalogs, indices, abstracts bibliographies and OCLC database.
 - B6. Monitors library's e-mail account and responds to requests received from there.
 - B7. Trains student assistants in handling telephone inquiries and especially referring technical inquiries to the permanent staff.
 - B8. Assists in collection development by identifying and reporting to the director heavily used materials or unfilled requests by library users.
 - B9. Explains and interprets to users library's procedures, policies, manuals and services.

27%

Kruse PD: DER offered Carolyn Kruse's PD (Exh. R-13) as an example of a position properly classified at the LSA-Adv. level. Her professional library function is original cataloging, creation of bibliographic records and reference services. The PD tasks at the LSA-Adv. level as identified by Mr. Johnson are shown below, along with his time estimates.

<u>Time %</u>	<u>Goals and worker activities</u>
4%	A5. Create permanent bibliographic records, and identify and create added access points where necessary, for each item new to Reserves.
4%	B. Consultation with faculty and their staffs regarding problem items. Includes all tasks in B, which is limited to B1 & B2, already part of the 4% estimate. B1. Contact faculty to inform them when citations are incorrect or incomplete, or when personal copies are defective.
2%	B2. Record and act upon faculty responses. D2. Investigate circulation problems, such as materials that cannot be located, blocked charges, blocked patron records, and inaccurate records by searching and interpreting cataloging and circulation databases. Take appropriate action to resolve problems. Authorize exceptions to normal policies and procedures as warranted.
6%	E1, E2 & E3: E1. Conduct interviews with patrons to identify their reference needs and determine the library resources that will meet those needs. Consult with and/or refer to a librarian questions with complex research needs.

- E2. Use basic printed reference materials to assist patrons in locating factual information. Explain use of these materials to patrons to enable them to use the sources on their own.
 - E3. Instruct patrons to use basic resources in the University of Wisconsin-Madison Electronic Library, which includes the online catalog and bibliographic, reference, and full-text databases to acquire information which will meet their needs.
 - 1% G4. Resolve problems and answer questions asked at the Reserves Acquisitions Office raised by staff at the College Library Reference/Information Desk.
 - 1% H1. Participate with the department supervisor in the development, implementation, evaluation and modification of policies and procedures relating to goal A.
 - 4% J. The original cataloging involved with the reserve collection, if any.
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- 22%

Mr. Johnson indicated he may have brought the Kruse position up to the Advanced level because the PD's Position Summary statement emphasizes the paraprofessional aspect of the position, as well as the responsibility for original cataloging. This approach places more emphasis on how a PD is worded rather than the proper focus on actual mix of duties performed. Form is elevated over substance by the resulting "double credit" given for functions listed in two sections of the PD.

DISCUSSION

Commission's role in reviewing reallocation/reclassification decisions

The Commission must decide which classification is the best fit for an appellant's position. The first step is to determine what the assigned duties of the position are and how frequently the duties are performed. The second step involves comparing the duties and percentages established at the first step to the criteria contained in the appropriate Class Specs. Division of Personnel v. State Pers. Comm. (Marx), Court of Appeals District IV, 84-1024 (11/21/85). The Commission lacks authority to rewrite or change the criteria contained in the Class Specs. Zhe, et al. v. DHSS & DP, 80-285, 286, 292, 296-PC (11/18/81); aff'd by Dane County Circuit Court, Zhe, et al. v. Pers. Comm. 81-CV-6492 (11/82).

The plain language used in a Class Spec is considered by the Commission. Resort may be had to comparable positions where certain key terms are undefined or ambiguity otherwise exists with the Class Spec. Langteau v. UW & DER, 83-0246-PC (2/13/85). Such additional information may provide evidence, for example, of how the language in the Class Spec was interpreted by DER for reallocations resulting from survey.

Mr. Johnson's Testimony Was Inconsistent or Contradictory in Key Areas

The examiner found Mr. Johnson's testimony inconsistent or contradictory to such degree as to be unreliable in certain key areas. Some examples are noted in the following paragraphs.

A serious discrepancy existed in Mr. Johnson's testimony regarding the 25% minimum performance of professional library functions which he said was required to meet the LSA-Adv. level. Specifically, half of the PDs DER offered as evidence of positions correctly classified at the LSA-Adv. level, did not meet the 25% minimum for performance of professional library functions. When asked about this, Mr. Johnson indicated that during the survey he did not go over each PD to determine the percentage of time spent in performing professional library functions. Rather, he read the PD, including the Position Summary statement and organization charts to obtain an "overall picture" which he then used as a basis for determining classification. In the examiner's opinion, this testimony conflicts with his prior testimony that he intended a 25% minimum when he drafted the LSA Class Spec. Under these circumstances, it would be inappropriate to use the 25% figure as an iron-clad cutoff for inclusion in the LSA-Adv. classification. If a rigid minimum were intended, it should have been included as a defined factor for the advanced level in the LSA Class Spec.

Positions existed which did not meet the 25% cutoff which Mr. Johnson initially testified was required for the LSA-Adv. level, yet Mr. Johnson placed at least some of those positions at the LSA-Adv. level. Mr. Johnson attempted to persuade the examiner that the failure to meet the 25% cutoff was somehow offset in some positions by certain factors. The alleged "offsetting factors", however, appeared to be Mr. Johnson's "on-the-spot" attempts to rehabilitate his own testimony which the examiner found unpersuasive.

Cataloging as a professional library function: Mr. Johnson testified that only the creation of original cataloging records counts as a professional cataloging function at the LSA-Adv. level. The LSA Class Spec does draw a distinction between original cataloging which is listed as an example of LSA-Adv. work, and copy cataloging which is listed as an example of LSA-Sr. work. However, the Class Spec for LSA-Adv. would include cataloging tasks other than the creation of original records, and such additional distinction is pertinent to Ms. Sadow's appeal.

Ms. Sadow resolves complex cataloging problems which often result in the need for her to correct a problem by amending an existing record. Mr. Johnson would recognize only such tasks which resulted in the creation of a new record as LSA-Adv. work. The Adv1, Adv7 and Adv8 examples of work performed in the Class Spec contradicts his testimony. The Commission rejects Mr. Johnson's testimony provided as an interpretation of the LSA Class Spec where such testimony is contradicted by the plain language used in the Class Specs.

What is "a significant amount of time" for the performance of professional library functions, within the meaning of the LSA-Adv. description?⁵

Due to the inconsistencies in Mr. Johnson's testimony (as noted above), the Commission concludes that no clear cut-off was established during the survey to define the minimum amount of time required at the LSA-Adv. level for performance of professional library functions. This problem has no easy "fix" at the Commission level.

The record evidence indicates that DER granted the LSA-Adv. level for positions which performed 19% professional library functions. No lower figure is supported by this record. Since Ms. Sadow performed less than 19% of professional library functions, she failed to show entitlement to the LSA-Adv. level.

The Commission's decision should not be interpreted as substituting 19% as a fixed cutoff to replace the 25% figure advanced by Mr. Johnson. Rather, based on the record in Ms. Sadow's case, it was shown that DER interpreted

⁵ This section of the proposed decision was changed to clarify the nature of the full Commission's decision.


the LSA Class Specs to include at the advanced level, positions which performed professional library services for at least 19% of the time.

ORDER


The Commission affirms DER's decision to reallocate Ms. Sandow's position to the LSA-Sr. level and this appeal is dismissed.

Dated March 8, 1995.

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial

review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.

2/3/95