

STATE OF WISCONSIN

PERSONNEL COMMISSION

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DEBRA DOYLE,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 94-0191-PC

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INTERIM
DECISION
AND
ORDER

This case involves an appeal pursuant to §230.44(1)(b), Stats., of a reallocation. The stipulated issue for hearing was whether "respondent's decision to reallocate the appellant's position to Library Services Assistant - Senior [LSA-Sr.] was correct or should the appellant's position have been reallocated to Library Services Assistant - Advanced [LSA-Adv.]" (conference report dated 10/03/94).

Appellant is employed at the UW Madison General Library System in the Central Technical Services (CTS) Social Science Department. Appellant functions very independently under the general supervision of Irene Zimmerman, a Senior Academic Librarian and Head, CTS Social Science Department.

There is no significant dispute concerning the worker activities actually associated with this position. Appellant's updated position description (PD) (Respondent's Exhibit 2A) is a basically accurate description of her job, and contains the following "position summary":

This is a para-professional position serving in an advanced support role in the Central Technical Services Social Science Department. Functioning under general supervision, this position reports to the Head of the Social Science Department. This position is responsible for serving as trainer and resource person for MadCat (the General Library System's online catalog which contains over 2 million records), NOTIS (the integrated automated library system used for acquisitions, cataloging, cataloging utility used by the GLS), and the cataloging of theses. In addition, this position assists the Social Sciences Bibliographer; is responsible for the catalog maintenance and problem solving of name headings, subject headings, call numbers and locations; and provides onsite public assistance in the use of MadCat, library

services and the location of materials to faculty, staff, students, and other community users.

The duties performed require thorough knowledge and experience in the use of OCLC, MadCat, NOTIS and other library policies and procedures. A significant degree of independence in decision making and problem solving is required.

This PD reflects a 25% allocation for Goal A of providing instruction in the use of MadCat, OCLC, NOTIS, etc.; 35% for Goal B of assisting "the Social Services bibliographer in the areas of acquisitions, bibliographic control and collection management; 20% for Goal C, "[c]atalog maintenance of bibliographic records and problem solving of cataloging and related problems," 5% for Goal D, which involves providing onsite assistance at the "MadCat Public Help Desk" regarding MadCat and other information databases, and 15% for Goal E, miscellaneous duties, which includes special projects and providing "backup for the rush cataloging of theses."

The Library Services Assistant Class Specification (Respondent's Exhibit 1) statement of inclusions includes the following:

This series encompasses clerical support and paraprofessional positions responsible for providing support to professional librarians by performing activities such as limited reference and cataloging services; assisting library patrons in the use of services available, i.e., indexes and special collections; operating the Online Computer Library Center (OCLC); conducting bibliographic searches; preparing catalog cards and authority cards for entries not established; overseeing circulation desks; and performing interlibrary loan tasks.

The Library Services Assistant Class specification (Respondent's Exhibit 1) includes the following definition of the LSA - Adv. Level:

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 [as defined in the examples of work performed at this level] 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.
(brackets in original)

The focus of this case with respect to this class definition is relatively narrow. It is essentially undisputed that appellant's position satisfies the LSA - Adv. criteria except for the requirement that positions at this level "are

responsible for the performance of tasks identified as professional library functions ...for a significant amount, but less than a majority of time." This criterion, in turn, has given rise to two collateral issues - what is the meaning of the terms "professional library functions" and "significant amount."

With respect to the first question, there is essentially no dispute about the basic parameters of what are considered basic professional library functions - circulation, acquisitions, reference, and bibliography. However, there are a number of activities performed at the library in connection with these four general areas which may be considered support rather than professional in nature. This factor has generated a number of disputes between the parties which are discussed below.

With respect to the second question, respondent asserts that a "significant amount" is at least 25%. Respondent's contention rests primarily on a provision in the DER Classification and Compensation Manual at §332.040 c.2.b.1. (Respondent's Exhibit 6) which defines "significant" in the context of the determination for reclassification purposes whether a position has undergone a "logical and gradual change"¹ as "more than 25%." In the Commission's opinion this provision is not dispositive of the issue.

To begin with, the equation of 25% with "significant" is in the context of deciding what is a "gradual" change for reclassification purposes. What is considered a significant portion of a position with respect to change is not necessarily equivalent to what should be considered a significant portion of a position for the purpose of determining its substantive classification.

Second, the LSA - Adv. class definition does not incorporate the 25% standard either explicitly or by reference to the Classification and Compensation Manual provision. Therefore, the standard does not have the same force and effect as part of the class specification definition per se.

Third, Sadow v. DER, 94-0180-PC (3/8/95), demonstrates that DER has approved LSA - Adv. classifications for positions having as little as 19% professional activities.

For these reasons, the Commission concludes that the 25% criterion is not an absolute minimum for classification at the LSA Adv. level. Because the record supports a finding that appellant meets the 25% criterion in any event, the Commission need not address further the exact parameters of the requirement for a significant amount of professional library functions.

¹ §ER 3.01(3), Wis. Adm. Code.

Before addressing the specific activities which are in dispute, it should be noted that appellant has the burden of proof, see, e.g., Vranes v. DER, 83-0122-PC (7/19/84). Therefore, where appellant has not adduced a preponderance of evidence on a particular issue, or there is simply insufficient information from which to draw a conclusion, the Commission must rule against appellant with respect to that issue. Also, this decision does not address areas of appellant's PD which either she does not claim as professional, or respondent does not dispute are professional.

Respondent's expert witness testified that certain aspects of appellant's position are professional in the context of the LSA - Adv. classification. As associated with appellant's PD, these are as follows with the approximate percentages conceded to be professional:

2%: Part of A4. Activity A4 is as follows:

A4. Train appropriate staff in CTS to catalog theses. Instruct staff to create new bibliographic records using an OCLC template, search name authority file and establish name heading, and determine call number by using the shelflist. Revise work until acceptable error level is established; provide feedback to individual and supervisors as necessary.

2%: Part of A5. Activity A5 is as follows:

A5. Act as a resource person for questions on MadCat, NOTIS, OCLC, and theses cataloging.

6 or 7%: B4. This activity (B4) is as follows:

B4. Assists in the compilation of subject-specific bibliographies using appropriate online databases, reference materials and Procite bibliographic management software.

1%: Part of C1.3. This activity (C1.3.) is as follows:

3. Use LC classification schedules and previously cataloged material to compare and verify accuracy of call number problems. Resolves author number conflicts, following shelflisting guidelines. May also involve resolving main entry name form which requires some knowledge of AACR2 cataloging formats and standards and the LC Name Authority file.

2%: E6. This activity (E6) is as follows:

E6. Provide backup for the rush cataloging of theses.

These activities add up to either 12% or 13%, depending on whether 6% or 7% is used for activity B4.

Turning to the disputed activities, appellant's PD summarizes Goal A (25%) as: "Provide technical services training and serve as resource person to library staff usually, but not exclusively, those affiliated with, the Social Science Department, e.g., member librarians, bibliographers/selectors, classified staff and student employes." This work includes providing instruction in MadCat, OCLC, and NOTIS. Appellant claims that 12% of her position which falls under Goal A is professional. While appellant performs a relatively advanced technical function here, the Commission agrees for the most part with respondent's contention that this activity is not (with the exception of the more substantive/librarian - type functions in activities A4 and A5) professional library functions. The record supports a finding that appellant is involved in what is better characterized as instructing a broad range of users how to use the automated systems to perform library functions, as opposed to providing instruction in substantive library functions. While this activity requires knowledge of how this area of the library system functions, the focus is on the use of the automated system.

Related to the foregoing, the Commission also agrees with respondent's contention that the LSA - Adv. example of work performed: "9. Serve as a resource person or trainer for a functional area or program" must be interpreted as encompassing professional library functions per se within them, as opposed to, for example, any functional area or program that is strictly support in nature. Since this work example lacks specificity -- i.e., it does not state specifically what types of "areas" or "programs" are covered, it must be read in the context of the other examples -- i.e., reference, cataloging, etc.

With respect to Goal B ("assist the Social Sciences bibliographer in the areas of acquisitions, bibliographic control and collection management"), appellant claims that activities B3 and B4 are at the advanced level.

Activity B3, which the record supports constitutes 10% of appellant's position, provides: "assigns vendors for firm orders; places orders for cash with orders, rush, special, and complex orders." Appellant has sustained her burden of proof with respect to this item.

Initially, while respondent has not admitted that this activity is at the advanced level, respondent's expert witness did not deny that it could be depending on the nature of the work actually performed.

Appellant adduced testimony from library supervisors equating this activity with the Advanced level. Also, this activity is similar to activities found in the PD's for other LSA - Adv. positions in this record, Appellants Exhibits 22-24. Respondent took the position at hearing that these PD's considered in isolation were not at the Advanced level, and had originally been determined to have been at the Senior level, but that based on additional information provided by the library were classified as Advanced.² However, in the absence of any information about the nature of these positions that is not reflected on their PD's, but which makes the positions advanced, the Commission is constrained to conclude that, since these positions are not obviously misclassified on the basis of the class specifications, they are correctly classified on the basis of the duties and responsibilities described on their PD's.

Appellant's activity B3 is also similar to parts of a professional librarian PD (Respondent's Exhibit 10), which includes: "A1. Assigns vendors to incoming requests for monograph orders," and "A3. Train and act as resource person for staff involved in monograph order preparation and the processing of vendor/publishing reports."

Finally, Respondent's Exhibit 3 is a description of "analogous tasks" for the LSA classifications that were prepared by the UW-LaCrosse library director in conjunction with other library directors during the survey process. Respondent took the position that it relied substantially on the items in this document in determining what kind of work should be associated with the advanced level. This document includes at the advanced level under the heading of acquisitions: "1. Assign vendor and release requests for purchase."

With respect to activity B4, appellant claims this is advanced level work and consists of 9% of her job. Respondent contends that only part (6% or 7%) of this activity is at the advanced level. Since appellant's claim regarding this activity is supported by the testimony of a professional librarian, respondent has not provided a specific explanation of its position that only part of this activity is at the advanced level, and there is nothing in this activity that is per se inconsistent with the Advanced definition, the Commission concludes

² The library personnel manager testified as part of appellant's rebuttal case that she was not aware of any specific information about these positions that had been provided to DER, although there was a pending reclassification request with respect to R23 which would have been accessible to DER.

that appellant has satisfied her burden of proof with respect to her claim regarding this activity.

Under Goal C, the parties are in agreement that activity C1.3. in the amount of 1% is at the advanced level. Appellant also claims the following activities in the following percentages:

- 1% C6. Facilitate communication between department and member libraries regarding editing changes.
- 2% C7. Report concerns to department head which may result in revisions to policies and/or procedures.
- 3% C8. Act as a resource person for other staff in the area of catalog maintenance.

Appellant has not made a particularized showing with respect to these activities that would establish them at the LSA - Adv. level. To the extent she is relying here on what might be referred to generally as her training and resource role, the Commission would reject this approach for the reasons expressed in other parts of this decision. Therefore, the Commission concludes that appellant has failed to satisfy her burden of proof with respect to activities C6 - C8.

Appellant also contends that all of Goal D is at the advanced level:

- 5% D. Provide onsite assistance in the use and interpretation of the library's online computer catalog (MadCat) and other information databases at the MadCat Public Help Desk.

Again, the Commission agrees with respondent that this is not advanced level work, because it involves providing assistance with respect to the operation of an automated system rather than professional reference work per se. Appellant is not providing clients with advice as to sources of information, but rather with advice as to how to use the library's automated systems to search for source of information.

In conclusion, because appellant has sustained her burden of proof to the extent of establishing that 26% of her position entails the performance of professional library functions, her position should have been reallocated to the LSA - Advanced level.

ORDER

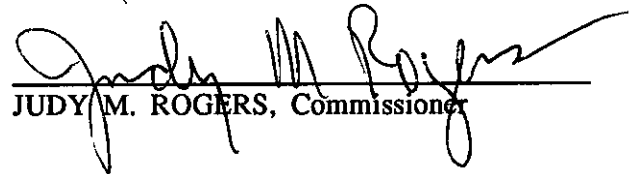
Respondent's action reallocating appellant's position to LSA - Sr. rather than LSA - Adv. is rejected and this matter is remanded to respondent for action in accordance with this decision.

Dated: May 26, 1995 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

AJT:bjn


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