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STATE OF WISCONSIN

PERSONNEL COMMISSION

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PHILIP E. KLEIN,

Appellant,

v.

Secretary, DEPARTMENT OF
HEALTH AND SOCIAL SERVICES,
and Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondents.

Case No. 95-0074-PC

* * * * *

FINAL
DECISION
AND
ORDER

A proposed decision and order was mailed to the parties on October 13, 1995. Mr. Klein requested additional time to submit written arguments and such request was granted by the Commission on November 22, 1995. The final reply to Mr. Klein's arguments was filed on December 11, 1995.

The Commission consulted with the hearing examiner and reviewed the arguments filed by the parties. The Commission adopts the proposed decision as its final decision with the additional discussion and amendments shown below.

DISCUSSION

Mr. Klein filed several objections to the proposed decision. Each is shown below with the Commission's reply.

Finding of Fact (FF) #6 of the proposed decision: The "agreed upon" PD was in fact the PD which my supervisor requested I re-write after I Submitted my proposed changes to reflect what I was actually doing. In effect, my supervisor refused to include these changes in the PD even though he expected me to carry them out or knew that I was already working on some of the tasks (e.g. implementation of GIS/LIS within the department). At least one of these points is verified by my function as the liaison appearing in my PPDs. Additionally, I did not receive assignments from Mr. Cunningham, but from the WLIB Integration/Clearinghouse Committee.

The dispute over inclusion of certain duties in Mr. Klein's official position description (PD) already is noted in finding of fact #6. The term "agreed upon PD" is more appropriately described as "officially adopted" PD. The change in terms is an amendment included below for clarification purposes.

The record supports the conclusion that Mr. Klein received WLIB assignments from Mr. Cunningham. (For example, Mr. Klein's involvement with the WLIB started as an assisting role to Cunningham. Also see Buhr testimony.) There is no indication in the record to support Mr. Klein's broader contention that such assignments came from the WLIB Integration/Clearinghouse Committee.

FF #19: My 1989 PD did not recognize my GIS function, it recognized my GRAPHICS (not GEOGRAPHICS) function. These are very different. My reclassification at that time was actually based on my newer PC relational database development, including software evaluation and selection.

The information in the second sentence of finding #19, was based upon testimony from Mr. Buhr, who stated more than once that Mr. Klein's 1989 PD acknowledged the graphing and mapping skills which resulted in the prior reclassification of Mr. Klein's position from Research Assistant 5 (RA5) to RA6. The wording is amended below to comport with Mr. Buhr's testimony.

FF #20: I did use this knowledge to "provide authoritative advice and interpretation" to BIS when the Integration Plan was being written, especially with regard to the structure of the advisory/user group, the costs of training staff, hardware and software costs, and the number of staff that would be necessary for startup of the program. The language in the standards does not require that the person providing the "authoritative advice and interpretation" will be the person actually making the policy or resource allocation decisions, merely that he provide advice and interpretation "to agency management." I gave this advice to Mr. Radl and he testified to that fact. I have been doing this on a regular and continuing basis regarding the Plan and believe I am therefore entitled to a KS-4 rating.

The Commission disagrees with Mr. Klein's contention here. His participation in the committee work while beneficial to DHSS, does not meet the KS-4 standard of providing "authoritative advice and interpretation to agency management on policy and resource allocation decisions". The Commission has recognized that being a member of a committee is common and, for classification purposes, has questionable significance. Rasman v. DER, 92-0435-PC (6/21/94) and Koch v. DER, 92-0555-PC (8/22/94)

FF #24: The step of motivating cooperation of agencies was taken by the WLIB Integration/Clearinghouse Committee. The eleven agencies, including DHSS, had not submitted their plans to the WLIB, contrary to their statutory obligation. Motivating these agencies to submit plans was the first goal. Additionally, the WLIB project was not in its infancy, only the state agency portion of the Land Information Plan was not being fulfilled. This is why the agencies had to be motivated, why the Committee had to develop a strategic plan and why the DOA Secretary was enlisted to help in that motivation. I was chairman of the subcommittee that developed the public relations/motivation strategy that resulted in DHSS finally submitting a plan. The step of motivating cooperation of organizations or groups was a function of the IC Committee and I was assigned as chairman of the subcommittee, which was a natural outgrowth of my liaison function.

The record clearly established that while Mr. Klein participated on a committee level, he had no responsibility or accountability for motivating others. (Testimony of Buhr and Seeley.)

FF #25: My contacts in the WLIB IC Committee and my role in that committee was related to a "sensitive political question," namely, "How do you get state agencies to abide by their statutory obligations when there is no statutory penalty for non-cooperation?" Another sensitive political question from the standpoint of DHSS was, "How would it look to the DOA Secretary if DHSS ignores his encouragement to cooperate with the WLIB and fulfill a statutory obligation to submit an integration plan?" It is also a "major public issue" when the continued existence of the WLIB (sunset provision in the legislation) might be in jeopardy if one of its major functions (state agency integration plans) is not being carried out. I believe this clarification on paragraphs 24 and 25 would warrant a rating of PC-3.

The Commission disagrees with Mr. Klein's characterization of his WLIB work as involving a sensitive political question. DHSS' role was statutorily mandated, not controversial.

Final Page: I do not understand the sentence in the first paragraph on the last page, "It would be inappropriate to give him credit for the nature of contacts he did not perform but which are a goal of the WLIB."

The cited language means that while the WLIB as a whole may have had certain responsibilities (such as motivating agencies), such responsibilities are not imputed automatically to Mr. Klein's participatory role as a committee member. The record does not show, for example, that Mr. Klein was responsible or accountable for achieving participation by others. His co-authorship of drafting a letter for the DOA Secretary's signature urging others to participate falls far short of the position standard requirements. (See, for example, par. 1, p. 7, Exh. A-19.)

AMENDMENTS

1. In finding of fact #6, change the term "agreed upon PD" in the second sentence to "officially adopted PD".
2. In finding of fact #19, delete the final sentence and replace it with the following sentence.

His 1989 PD already recognized his graphing and mapping skills and such skills resulted in his prior reclassification from RA-5 to RA-6.

3. Amend to combine the fourth and fifth sentences of the first paragraph of the DISCUSSION section, as shown below. This amendment is made by the Commission to clarify the intended meaning.

The Standard requires such work to be done on "a continuing basis".

ORDER

The Commission adopts the proposed decision and order as its final decision and order, as supplemented by the foregoing discussion and amendments.

Dated December 20, 1995.

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

JMR

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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

STATE OF WISCONSIN

PERSONNEL COMMISSION

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PHILIP E. KLEIN, *

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v. *

Secretary, DEPARTMENT OF HEALTH *
AND SOCIAL SERVICES, and Secretary, *
DEPARTMENT OF EMPLOYMENT *
RELATIONS, *

Respondents. *

Case No. 95-0074-PC *

* * * * *

PROPOSED
DECISION
AND
ORDER

A hearing was held in the above-noted case on July 19, 1995. Both parties submitted post-hearing arguments with the final brief received by the Commission on September 29, 1995.

The hearing issue was agreed to by the parties at a prehearing conference held on May 22, 1995, as shown below.

Whether the respondent's decision to deny the request for reclassification from Research Analyst 6 to Research Analyst 7 was correct. If not, what is the appropriate effective date of the transaction.

FINDINGS OF FACT

Mr. Klein's Request for Position Reclassification

1. On January 31, 1994, Mr. Klein wrote a memo requesting reclassification of his position from RA6 to RA7, and submitted the same to his supervisor, Fred Buhr, Chief of the Economic Assistance Research Section in DHSS' Bureau of Welfare Initiatives. (Exh. R-2, p. 16)
2. Mr. Buhr denied the request by memo dated March 8, 1994. (Exh. R-2, p. 15)
3. Mr. Klein submitted his appeal of the supervisor's denial to Gayle Hariu with the DES Personnel Office, by memo dated April 6, 1994. (Exh. R-2, p. 14).
4. DHSS rejected his reclassification request for reasons discussed in a memo to J. Jean Rogers, Administrator of DES, dated March 10, 1995. (Exh. A-11.)

Mr. Klein's Position

5. Mr. Klein's position is located in the Department of Health and Social Services (DHSS), Division of Economic Support (DES), Bureau of Welfare Initiatives. His first-line supervisor (at times relevant to this case) was Fred Buhr, whose supervisory position was classified as a Research Assistant 8 (RA-8) -- Supervisor.
6. Mr. Klein's official position description (PD) which existed prior to asking his supervisor's approval for reclassification, is in the record as Exh. A-8, dated April 28, 1989. After Mr. Klein initiated his reclassification request, he and his supervisor agreed upon a re-written PD which is in the record as Exh. A-7, dated April 13, 1994. A further revised PD was developed by Mr. Klein but not approved by his supervisor, and is in the record as Exh. A-6. His supervisor declined to approve Exh. A-6, because (in part) the supervisor had been unaware that Michael P. Cunningham, one of DHSS' representatives to Wisconsin Land Information Board (WLIB) had given assignments to Mr. Klein which comprised more than 3% of Mr. Klein's time. The supervisor did not want Mr. Klein's position spending more than a nominal amount of time on WLIB, because the intended focus of Mr. Klein's position was RA duties related to child support issues.
7. It remains true, however, that Mr. Klein performed more WLIB-related tasks than envisioned by his supervisor. The evidence did not establish that Mr. Klein felt these assignments were beyond what his supervisor had authorized, or that Mr. Klein attempted to conceal this work from his supervisor. Accordingly, this decision will rely on the duties as reflected in the unapproved PD (Exh. A-6), which is summarized below using the PD format.

POSITION SUMMARY: Under general supervision of the Chief, Economic Assistance Research and Statistics Section, this position is responsible for the design, development, implementation and evaluation of statistical information systems and special research studies; analysis, interpretation and dissemination of data; and consultation and interpretation concerning the nature, availability and utilization of statistical data and systems with special emphasis on the Child Support Enforcement programs. This work also covers a wide variety of other IM programs,

principally Aid to Families with Dependent Children, Food Stamps, Medical Assistance, Refugee Assistance, Relief to Need Indian Persons, and General Assistance and involves working relationships with Department and Division administrative and programs staff, agencies of 72 counties and 11 Indian tribes, the University of Wisconsin, Departments of the U.S. and Wisconsin state governments; legislative representatives and other departmental divisions. The work products are used by the federal Office of Child Support Enforcement; Social Security Administration; USDA Food and Nutrition Service; Wisconsin Department of Health and Social Services; Division of Community Services and Division of Policy and Budget; Department of Administration; Wisconsin Land Information Board; Legislative Fiscal Bureau; Legislative Audit Bureau, Legislative Reference Bureau, Wisconsin Integrated Legislative Information Services, and other state and federal offices for the purposes of: federal funding reimbursement, budget allocation determinations, program measurements and performance evaluations, policy making and decision making and projections of future conditions and requirements, and development of Department Land Information Integration Plan. These various activities involve a program which collects \$60 million annually from 200,000 persons through several different types of agencies of 72 counties, i.e. social service departments, child support agencies, clerks of courts, and district attorneys; and affects other IM programs that distribute nearly \$2 billion annually. It also affects the implementation of GIS/LIS within the department, including staffing, training, hardware and software decisions.

| <u>Time (%)</u> | <u>Goals and Worker Activities</u> |
|-----------------|---|
| 80% | A. Design, development, implementation & evaluation of multi-purpose statistical and land information systems relating primarily to the Child support Enforcement program to meet federal, state and county management information needs. Analysis, interpretation, and dissemination of child support and other data through regular and special statistical reports and publications. |
| 10% | B. Design and conduct special studies of income maintenance and child support issues at direction of Division administrative staff. |
| 10% | C. Provision of consultation and interpretation to program and administrative staff concerning the nature, availability, and utilization of statistical data. |

8. The unapproved PD detailed in the prior paragraph, included sections to describe: a) the knowledge and skills required, b) the nature and purpose of contacts made by the position's incumbent, and c) the

discretion and accountability of Mr. Klein's position. These sections are not summarized here but were considered in making this decision.

Position Standard - General Analytical Framework

9. The position standard (Standard) for Research Analyst (RA) positions is in the record as Exh. R-5. The Standard covers several classification levels from RA-4 through RA-8, as well as Research Administrator 1 through 4. A position's placement at a specific level in the Standard is dependent upon the position's total score under the factor evaluation system (FES) described in the Standard.
10. The Standard includes the following factors in the FES: i) Scope (S) and (I) Impact, ii) Complexity of Work (C) , iii) Knowledge and Skill Required (KS), iv) Nature of contacts (NC) and their Purpose (PC), and v) Discretion and Accountability (D). The first factor involves determining the proper level for Scope and the proper level for Impact. The two levels are then compared against a grid to arrive at a point score for the combined factor of Scope and Impact. The fourth factor is similar to the first in that a separate determination is made for Nature of Contacts and for Purpose of Contacts, which are then compared against a grid to arrive at a point score for the combined factor of Nature and Purpose of Contacts. The remaining factors do not use the grid principle, but result in the assignment of points for each factor.
11. The chart below shows the scoring requirements for RA positions at the 6 and 7 levels. (Standard, p. 8-9.)

| <u>RA Level</u> | <u>Total Points Required</u> |
|-----------------|------------------------------|
| 6 | 410-500 |
| 7 | 505-605 |

Disputed Areas of DHSS' FES Analysis of Mr. Klein's Position

12. DHSS' evaluation of Mr. Klein's position under the Standard resulted in a total score of 460 points, as shown below. (Exh. R-6) The resulting total of 460 points translates in the Standard to a RA-6 classification level.

| <u>Factor</u> | <u>Degree Level</u> | <u>Score</u> |
|-------------------|---------------------|------------------|
| Scope/Impact | S-3/I-3 | 140 (for S + I) |
| Complexity | C-3 | 115 |
| Knwldg/Skill | KS-3 | 80 |
| Natr/Purp Contact | NC-2/ PC-2 | 45 (for NC + PC) |
| Discretn/Actblty | D-3 | <u>80</u> |
| TOTAL | | 460 |

13. The parties dispute the scores shown in the prior paragraph for the factors of Scope, Knowledge and Skill required, and Purpose of Contacts. The scores DHSS gave to the remaining factors (Impact, Complexity, Nature of Contacts and Discretion) are undisputed.
14. The chart below shows the additional FES points which would be awarded if Mr. Klein's arguments were accepted.

| <u>Factor</u> | <u>Resulting Klein Claims</u> | <u>Additional Points</u> |
|---------------------|-------------------------------|--------------------------|
| Scope | S-4 | +30 |
| Purpose of Contacts | PC-3 | +15 |
| Knowledge/Skill | KS-4 | +30 |

Mr. Klein's position would be entitled to classification at the RA-7 level, if he is correct in any 2 of the 3 disputed areas.

SCOPE - Standard Applied to Mr. Klein's Position

15. The Standard contains a discussion of the factor of scope, as shown below in pertinent part. (Standard, starting on p. 9.) (Emphasis appears in original document.)

FACTOR 1 - Scope and Impact

NOTE: The factor is divided into two subfactors, with Scope measuring the range of functions and the degree of responsibility of the position for, or the extent of the contribution of the work product to, the effect of the work described in the Impact subfactor definitions. The same responsibilities should be used to select the level under each subfactor, and these responsibilities should represent the primary purpose of the position.

* * *

S-3

The purpose of the work is to formulate and conduct entire research projects, or to develop and operate statistical information reporting systems which require substantive effort in all the aspects of a comprehensive research project, or in statistical information reporting system design, operation, and maintenance, described at the Level S-2. Results depend on the analyst's development of new approaches or methods and the establishment of many of the criteria or presuppositions upon which project conclusions/recommendations depend.

* * *

S-4

The purpose of the work is to formulate and conduct analytical projects as described at Level S-3 above, but which are greater in scope due to: 1) the analyst's responsibility for directing the work of several full-time assistants; 2) the need to develop new theories, methodologies, or concepts, to complete the assignments; 3) the lack of previous results, established plans or policies, or similar constraints on or presuppositions to project results.

OR

The purpose of the work is to administer a research, statistical analysis, and/or statistical information reporting program, typically as a line supervisor of staff functioning at Level S-3 or above. The position is responsible for establishing and implementing program objectives and standards, deciding what studies should be conducted or reporting systems developed, organizing the work unit and preparing final budget requests, representing the program to outside organizations, and providing authoritative consultation to agency management on all matters relevant to the program function.

16. As noted in the prior paragraph, the Standard has 2 descriptions for the S-4 level claimed by Mr. Klein. The first description at the S-4 level describes 3 numbered requirements, each of which must be met to merit the S-4 level. Mr. Klein conceded his position does not perform the first numbered requirement (directing work of several full-time assistants). The second description at the S-4 level requires the position to be responsible for many things, including organizing the work unit and preparing final budget requests; both of which Mr. Klein conceded as inapplicable to his position. For these reasons, Mr. Klein is not entitled to the S-4 level.

KNOWLEDGE & SKILLS REQUIRED - Standard Applied to Mr. Klein's Position

17. The Standard contains a discussion of the Knowledge and Skill factor, as shown below in pertinent part. (Standard, starting on p. 14.) (Emphasis appears in original document.)

FACTOR 3 - KNOWLEDGE AND SKILL REQUIRED

Since positions covered by this standard are found in a wide variety of specializations, the factor level definitions cannot specifically mention all types or combinations of knowledge/skills that may be required for any one position. Rather, the factor level definitions are based on differences in the breadth and depth of the following broad types of knowledge/skills.

- Technical knowledge including knowledge of specific methods and techniques, professional standards and principles, the formal theory that governs the application of specific techniques or methods (e.g., psychometrics, sampling theory), and; the skill required to apply them. Typical disciplines from which technical knowledge is required include statistics, mathematics, psychometrics, demographics, econometrics, sociometry, and/or computer systems analysis and programming.
- Knowledge relating to the subject matter being studied, such as prior research results, how programs under study work, the history of governmental programs in the area, relevant laws, policies or regulations and related public policy issues, professionally accepted constructs, concepts, and theories explaining phenomena under study.
- Administrative knowledge and skills, including those required to plan, organize and control the work of others, the operation and principles of relevant administrative systems (e.g., budgeting, personnel, purchasing) and techniques of contract administration, public relations or similar functions.

NOTE: To be used as a basis for selecting a level under this factor, knowledge or skill must be required and applied on a continuing basis.

* * *

KS-3 80 Points

This is the first advanced level of knowledge, requiring, in addition to that described at Level KS-2, either:

- a. Deeper technical knowledge, typically in the form of considerable knowledge of statistics, psychometrics, demography, econometrics, or a comparable discipline, or of computer systems analysis and programming. This knowledge is sufficient to allow the analyst to

independently select, adapt and apply a wide range of analytic techniques or methods, explain the rationale for methods selected or adaptations made, act as a technical resource to other staff, and produce results consistent with accepted professional standards of the discipline in response to a wide variety of technical problems;

OR

- b) Knowledge of the subject matter field is extensive, enabling the analyst to provide authoritative consultation and interpretation as a recognized expert, develop new research hypotheses, develop and direct new research or statistical information reporting programs, or design and coordinate studies which add to the knowledge base about the program, population or issue under study. Typically, the analyst is considered the 'expert' in a particular subject matter area.

*** * ***

Illustration:

- (a) Applies a considerable knowledge of statistical theory and operations research techniques such as Markov chain and queuing models to adopt a mathematical model of physician supply to Wisconsin conditions in order to predict need for medical education resources.
- (b) Applies extensive knowledge of Job Service Employment Program operations and policies, of Federal reporting requirements and agency management information needs, and of the structure and content of existing statistical information reporting systems, as well as working knowledge of systems analysis principles and considerable knowledge of BASIC programming techniques, to direct the design of new statistical information reporting systems for the Work Incentive Program.

KS-4 110 Points

This level requires a greater depth and/or breadth of knowledge than that described at Level KS-3, in one of the following ways:

- a) Technical knowledge, typically in the form of extensive knowledge of statistics, psychometrics, demography, econometrics, etc., includes knowledge of advanced, state-of-the-art analytical techniques and of the theory or formal principles upon which their application is based. This knowledge allows the analyst to adapt the latest techniques to novel or unusually difficult assignments, provide authoritative advice or direction to others on highly technical or sensitive applications of these techniques, and to take responsibility for the design and defense of work products which are likely to be scrutinized by other technical experts due to the use of the product to support a controversial or sensitive position. Little or no assistance from other technical experts is received;

OR

- b) An expert knowledge of a broad subject matter area, such as health statistics, national and state demographics, labor market characteristics and trends, including extensive to thorough knowledge of elements such as the operations and goals of private and/or governmental systems, characteristics of the population under study, current public and professional issues in the field, current theories and research results. This level of knowledge is applied to conduct large scale studies with significant theoretical or policy impact, develop and direct broad program initiatives and/or provide authoritative advice and interpretation to agency management on policy and resource allocation decisions;

OR

- c) Knowledge required includes knowledge described at Level KS-3 (a) and (b) above, applied as described;

OR

- d) Knowledge of, and skill in applying, a wide variety of principles and practices needed to manage a large organizational unit with complex functions and subordinate supervisors may be substituted for either (a) or (b) at this level.

Illustrations:

- (a) Applies an extensive knowledge of sampling theory and survey research design, as well as extensive knowledge of statistical techniques and data processing methods, to adapt and implement a statistical information system to sample Medicaid, AFDC, and Food Stamp cases and determine error rates, error types, trends and relationships with a professionally acceptable level of reliability and validity, and explain system and results to Federal auditors.
- (b) Applies extensive knowledge of Wisconsin demography, current issues in population demography, results of previous research and various possible interpretations of population data to provide authoritative consultation to state legislative committees designing state aid formulas.

18. The KS-3 level has 2 descriptions, the first of which (par. a) is met by Mr. Klein's position. Mr. Klein did not claim entitlement to par. b of the KS-3 level.
19. Mr. Klein claims entitlement to the KS-4 level under the second (par. b) description based on his work with Geographic Information Systems (GIS) and as one of the Department representatives to the Wisconsin Land Information Board (WLIB). His 1989 PD already recognized his GIS

function and it was the GIS function which resulted in his prior reclassification from RA-5 to RA-6.

20. Even if his work in GIS and/or WLIB is considered as "expert knowledge of a broad subject matter area" within the meaning of par. b at the KS-4 level, it does not meet the requirements of the second sentence therein. Specifically, his position does not use this knowledge "to conduct large scale studies with significant theoretical or policy impact". Nor does he use such knowledges to "develop and direct broad program initiatives". Nor does he use such knowledges to "provide authoritative advice and interpretation to agency management on policy and resource allocation decisions". While it is true that resource allocation decisions will be made in the future, these are not decisions that are likely to be made by Mr. Klein.

PURPOSE OF CONTACTS - Standard Applied to Mr. Klein's Position

21. The Standard contains a discussion of the Purpose of Contacts factor, as shown below in pertinent part. (Standard, starting on p. 19.) (Emphasis appears in original document.)

FACTOR 4 - PERSONAL CONTACTS AND THEIR PURPOSE

This factor is divided into two subfactors: Nature of Contacts and Purpose of Contacts. The relationship of the subfactors presumes that the same contacts will be evaluated for both subfactors. Therefore, use of the personal contacts which serve as the basis for the level selected for Nature of Contacts as the basis for selecting the level for Purpose of Contacts.

Beyond the lowest levels of each subfactor, it is assumed that the type of contact being considered occurs frequently (e.g., occurs approximately once per month or more often). Occasional contacts (occurring between once per month and once per year) should be credited with points only if they are critical to the mission of the agency or central to the purpose of the position. Types of contacts which are so infrequent that it is uncertain that they will reoccur should not be considered.

* * *

Subfactor: Purpose of Contacts

* * *

PC-2

The purpose of the contacts is to plan and coordinate work efforts, receive or provide technical assistance or expert

interpretations, agree on means to work toward shared goals. Or, the purpose is to review, evaluate, or oversee the work of others outside the chain of command.

PC-3

The purpose of the contacts is to defend agency decisions or policies, to develop policy directions or strategy on sensitive political questions or major public issues, or to motivate the cooperation of organizations or groups in achieving agency goals.

22. Mr. Klein claims entitlement to the PC-3 level, based on his liaison work with WLIB, which includes the part he played with his supervisor in developing DHSS' Land Information Integration Plan (Plan). The Plan is in the record as Exh. A-13.
23. Plan excerpts are shown below which may be helpful in understanding the distinctions made in subsequent paragraphs of this decision.
 - a. Excerpt taken from p. 2 of the Plan:

Wisconsin Land Information Program

The [DHSS] is one of the eleven agencies required by the 1989 Wisconsin Act 31 to participate in the Geographic Information System/Land Information System Program. During the development of the [DHSS] initial plan, we will be able to draw on the many resources, expertise, and guidance from the [WLIB]. The statewide GIS/LIS program is being designed to take advantage of any data that can be referenced to a given geographic location. The [DHSS] has just begun to identify and develop the databases which may contain geographic components. This will make it possible to establish a LIS network of independent automated systems operating at all levels of both government and private industry. It will be supported through partnerships freely providing GIS/LIS information. Upon request the focus of this system will then be data driven at all levels of government using common statewide standards. This frees the user of the problem of interfacing the data with software or hardware. With this flexibility, cities, counties, the state agencies and private organizations will have a wide range of powerful data available upon request. Geo mapping created from this data will help top management in their day-today decisions.

- b. Excerpt from p. 5 of the Plan, where DHSS assesses its current uses of GIS/LIS.

[DHSS] has made very limited use of GIS/LIS. Within the Division of Economic Support, Phil Klein has been the only one producing informational maps on a regular basis. All other Divisions do not have any coordinated programs currently planned or in process at this time. . . .

- c. Excerpt from p. 7 of the Plan, where DHSS identifies its databases for future efforts to identify any "Geo Spatial" information. (Underlining is contained in the original.)

Possible Geographic and Land Information System [DHSS]

[DHSS] has many databases, most of which are tied to either statistical or actual data on recipients of our services. Because the Division Administrators are usually responsible for the databases and the protection of confidential information, these administrators will be the custodians of the land information. An in-depth process of interviewing Division personnel on what is personal and confidential information and what is public information will have to be done. In addition, all the databases in the following systems will have to be reviewed to identify the Geo Spatial information contained in each one. Each system may contain may databases, subsystems and files. This will be a time-consuming task over a long period of time. [Actual listing omitted here.]

- d. This excerpt is taken from p. 11 of the Plan which describes the integration plan preparation. (The underlining appears in the original.)

The final plan to be submitted to the [WLIB] will require the accumulation of a significant amount of information from all of the Divisions and Offices. Only when this is accomplished can the scope and time frame for implementing the integration plan be determined. The following outline covers the survey and interviews to be taken over the next several months to accomplish goals and objectives.

* * *

Custodial Responsibilities

. . . Division requests for databases, software, maintenance, and installation should be coordinated through a central GIS/LIS unit or group. The actual structure within [DHSS] is yet to be determined. This unit or group would then act as a coordinator and developer of information partnerships both internally and outside of [DHSS]. They could also develop and maintain the [DHSS] Geo Catalog.

24. While the ultimate (as-yet unachieved) goal of the entire WLIB project met the PC-3 requirement to "motivate the cooperation of organizations or groups in achieving agency goals", the contacts actually performed by Mr. Klein could not have been to motivate such cooperation. The excerpts above show that the WLIB project is in its infancy. The step of actually motivating cooperation of organizations or groups has not been undertaken or assigned to any position yet.
25. Mr. Klein's contacts were for the purpose of initial strategic planning of DHSS' role in the WLIB project, but such project is not a "sensitive political question or major public issue", as is required at the PC-3 level.

McPeek Position

26. John McPeek is a RA in DHSS, DES. His position was reclassified to RA-7, effective August 14, 1988. The reclassification documents are in the record as Exh. A-9, and his job duties are shown in Exh. R-12. Mr. McPeek's situation is not inconsistent with the denial of Mr. Klein's reclassification request.
27. The dispute in Mr. McPeek's reclassification request was over the FES factor Purpose of Contacts. DHSS had assigned Mr. McPeek's position to PC-1, and he wanted PC-2. He ultimately was granted the PC-2 level, under the following rationale, taken from p. 2 of Exh. A-9.
(Underlining appears in the original.)

Discussions with Mr. McPeek and Mr. Buhr confirmed the FES levels. Under both Nature of Contacts and Purpose of Contacts, Mr. McPeek's position is at the 2 level (45 points). Materials provided by Mr. McPeek show his participation on committees and work groups made up of individuals from outside the agency as well as within. One committee has developed performance standards for local agencies. Mr. McPeek is also working with DILHR staff to develop an existing DILHR information system into a format that can be used for DHSS AFDC work programs. Mr. McPeek has also provided a sample of management information forms which he developed through discussion and negotiations with county leaders. The layout, content, and use of data collected by the forms are controversial, and negotiations required tact and considerable persuasion by Mr. McPeek.

The purpose of contacts for Mr. McPeek's position is at least equal to Mr. Klein's position. Both positions meet the Standard language of PC-2.

28. Mr. McPeck's position was placed at the KS-4 level, which is the level desired by Mr. Klein. However, the record does not reveal what KS-4 paragraph from the Standard was met. Accordingly, comparison to Mr. Klein's situation cannot be done on any basis except speculation.

Miller Position

29. Richard Miller's position is located in DHSS' Division of Health in the Center for Health Statistics. His position was reclassified to RA-7, in 1992. His PD and the FES for his PD are included in Exh. A-10.
30. Mr. Miller's position was rated at the KS-4 level. The handwritten notes on the FES evaluation sheet are difficult to read for the KS-4 factor. The first handwritten line says: "Extensive Knowledge - Statistic Info. Tech." which indicates the KS-4 level was granted pursuant to the Standard definition of KS-4 in par. a, whereas Mr. Klein claims entitlement to the KS-4 level under par. b. Accordingly, the KS-4 score for Mr. Miller has little (if any) relevance to Mr. Klein's situation.

DISCUSSION

DHSS in reaching its decision on the classification for Mr. Klein's position, relied upon some interpretations of the RA Standard which Mr. Klein felt were unsupported by the wording of the Standard. This decision is written based on the text of the Standard without resort to the interpretations which were not clearly supported by the text of the Standard. For example, when DHSS analyzed Mr. Klein's position for the FES factor of knowledge under par. b of KS-4, DHSS conceded that Mr. Klein's work in geographic mapping and WLIB could be considered as "expert knowledge of a broad subject matter area" (within the meaning of KS-4, par. b) but disregarded such work because it was too small a percentage of his job. The Standard itself contains no time percentage requirements. All that is required is that such work be done on "a continuing basis". See par. 5 of this decision and, in particular, the NOTE quoted therein from the Standard.

Mr. Klein's post-hearing argument regarding the FES factor of Scope is shown below:

With regard to scope Appellant argues that he meets two of the three specified criteria in the the first paragraph of the S-4 level (numbers 2 and 3), as well as all, except one, of the

responsibilities specified in the second paragraph of the standard. This should be taken into account in the scoring and was not.

Appellant further argues that the responsibility of "directing the work of several full-time assistants," in paragraph one or "as a line supervisor" in paragraph two would result in additional Impact points and additional Accountability points. Furthermore, the language in paragraph two only states that the work is "typically" as a line supervisor, not exclusively as a line supervisor. Witnesses Ingrid Rothe and Fred Buhr testified that Appellant directed the work of several different part time staff. They did not dispute items 2 and 3 in the first paragraph and did not refute that the Appellant met all except one of the criteria in paragraph two.

The Standard would have to be rewritten or changed in order to credit the arguments raised by Mr. Klein. The Commission, however, lacks the authority to rewrite Standard. The Commission's narrower role is to look at the duties of a position and to compare them against the Standard as written. Zhe et al. v. Pers. Comm., 81-CV-6492 (11/82).

Mr. Klein's post-hearing argument relating to the FES factor Purpose of Contacts is shown below.

For personal contacts and their purpose, the two sub-factors are Nature and Purpose of contacts. Witnesses Richard Radl and Mike Cunningham clearly indicated that the primary purpose of the [WLIB] was to have contacts with officials of other agencies, to motivate cooperation and the range of issues were quite wide. During the time of evaluation, Mr. Cunningham testified that this included multiple meetings per month for strategic planning with additional sub-committee meetings lasting for as many as four hours. This alone would amount to about 16 hours of meeting time in a two month period. This would not include the additional time related to assignments coming from those meetings. Mr. Buhr's testimony relating to an insignificant amount of time does not accurately represent what first hand witnesses attested to regarding those meetings or the purpose of those contacts. Additionally, Mr. Cunningham testified that the Appellant was his "partner" as the Departmental liaison to the WLIB, not as a subordinate, assistant or R&S Section liaison. He would know what he expected of the Appellant, since he was the one who asked DES to have the Appellant accompany him to the WLIB. Mr. Radl testified that he had spent approximately 100 hours on the writing of the Departmental Land Integration Plan and that this document was a joint document of equal participation by him and myself. Mr. Buhr certainly knew of this work on my part, as it was specified in my proposed PD

(A6) and I was not told to cease working on the Plan. This level of responsibility, frequency of meetings and amount of time spent in that role should warrant the PC-3 level. If Mr. Buhr's expectation was different, it should have been specified in the PPD (A1) but never was.

This decision gives Mr. Klein credit for the work performed of which his supervisor apparently was unaware. (See par. 6 of the Findings of Fact.) This decision, however, appropriately concentrates on the nature of contacts made by Mr. Klein. It would be inappropriate to give him credit for the nature of contacts he did not perform but which are a goal of the WLIB.

Mr. Klein's post-hearing arguments on the FES factor of Knowledge and Skill Required focuses on DHSS' interpretations of the RA Standard which, arguably, are not supported by the text of the RA Standard. As noted above, the (arguably) questionable interpretations were not adopted in this decision.

ORDER

DHSS' reclassification decision regarding Mr. Klein's position is affirmed and this appeal is dismissed.

Dated _____, 1995.

STATE PERSONNEL COMMISSION

JMR

LAURIE R. McCALLUM, Chairperson

DONALD R. MURPHY, Commissioner

JUDY M. ROGERS, Commissioner

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