

STATE OF WISCONSIN

PERSONNEL COMMISSION

GAYLE JOHNSON,
Appellant,

v.

**Secretary, DEPARTMENT OF
CORRECTIONS, and Secretary,
DEPARTMENT OF EMPLOYMENT
RELATIONS,**
Respondents.

**FINAL DECISION
AND ORDER**

Case No. 99-0001-PC

This case involves the denial of reclassification of appellant's position from Food Production Assistant 2 (FPA 2) to Food Production Assistant 3 (FPA 3). The definitions of these classifications in the class specifications are as follows:

Food Production Assistant 2

This is very responsible food production lead work. Employees in this class are responsible for the operation of a food distribution and production unit on a continuing basis in one of the State Correctional Camps. Work is performed under general supervision.

Food Production Assistant 3

This is highly responsible food production lead work. Employees in this class are responsible for guiding all the activities of a production unit of a large food service organization on a continuing basis where the staffing pattern does not allow for a supervisory position but the program responsibilities are comparable to those of a Food Production Manager 2. Work is performed under limited supervision.

Appellant is employed at the Flambeau Correctional Center in a position classified as FPA 2. Over the course of her employment, there have been considerable changes in the duties and responsibilities of her position. This is reflected in her 1991 and 1997 position descriptions (PD's). They include the following position summaries, goals and worker activities:

1991 PD:

POSITION SUMMARY – Under the general direction of the Center Superintendent, this position is responsible for the total food service operations at Flambeau Center. Direct the production of meals; train and supervise inmate food service workers; plan means and procure supplies; care for and clean kitchen equipment. Maintain food inventory and proper sanitation standards. Must work holidays and may work weekends, and other times as needed and/or directed. . .

TIME % GOALS AND WORKER ACTIVITIES

- 50% A. Supervise food preparation.
 - A1. Supervise inmate kitchen workers in the preparation, cooking, and baking of a variety of foods, meats, vegetables, breads and desserts.
 - A2. Demonstrate the proper methods of food preparation according to menus and time schedules.

- 20% B. Plan meals, process food stuffs and maintain records.
 - B1. Plan daily menus for Center meals.
 - B2. Prepare requisitions for food, cleaning supplies and equipment.
 - B3. Procure dairy products, produce and meats ensure that they meet state specifications.
 - B4. Prepare and maintain records of estimates, food purchases, food and supplies received, inventories requisitions.
 - B5. Prepare estimates of expandable and capital items, maintain specifications for new equipment.
 - B6. Check all incoming supplies, supervise storage, security and rotation.

- 20% C. Train inmates in food service techniques, providing instructional materials
 - C1. Instruct and demonstrate proper procedures of food preparation, cooking, baking, meat cutting and processing.
 - C2. Teach operation methods of all equipment; demonstrate handling and cleaning techniques.
 - C3. Teach safety standards and sanitation methods.

C4. Participate in work evaluations of kitchen workers.

C5. Supervise and transport inmates to off-grounds food service classes and other programs, monitoring inmate activities; assure compliance with security regulations and Center policies and procedures.

10% D. Supervise the care and clean up of kitchen, bakery, meat shop, dining area and storage areas, kitchen utensils and equipment; maintain proper sanitation standards.

1997 PD:

POSITION SUMMARY

Under the direction of the Center Superintendent, this position is responsible for the food service operation at the Flambeau Correctional Center. Direct the production of meals; train and supervise inmate food service workers; plan meals and procure supplies; care for and clean kitchen equipment; maintain food inventory and proper sanitation standards. May work holidays and weekends, and other times as needed and/or directed. This position will use computer software in the preparation of food estimates.

TIME% GOALS AND WORKER ACTIVITIES

50% A. Direction of inmate food service workers in food preparation and production, and performance.

A1. Supervise inmate workers in the preparation of cooking and baking of foods, meats, vegetables, breads and desserts for Center, including bag lunches and special occasions.

A2. Demonstrate the proper methods of food preparation according to menus and time schedules.

A3. Maintain sharps control in food service and insure that the correctional center's policy is followed.

A4. Ensure that special dietetic foods are available when necessary, and that the WCCS Modified Diet Policy is followed.

A5. Write and update inmate food service workers job description as necessary.

A6. Develop and maintain work schedules for offenders as well as maintain accurate payroll records.

A7. Interview and assess inmate job skills for placement in food service area.

20% B. Plan meals, process food stuffs and maintain records.

B1. Plan daily menus for center meals.

B2. Maintain recipe cards for menu items.

B3. Prepare requisitions for food, cleaning supplies, paper supplies and equipment. Monitor expenditures to ensure purchases remain within budgeted amounts.

B4. Prepare and maintain records of estimates, food purchases, food and supplies received, inventories, requisitions.

B5. Prepare estimates of expandable and capital items, maintain specifications for new equipment.

B6. Check all incoming supplies, supervise storage, security and rotation.

B7. Procure daily products, produce and meats ensure; that they meet state specifications.

B8. Use computer software as required.

20% C. Train inmates in food service techniques, providing instructional materials.

C1. Instruct and demonstrate proper procedures of food preparation, cooking, baking, meat and [sic] cutting and processing.

C2. Teach operation methods of all equipment; demonstrate handling and cleaning techniques.

C3. Teach safety standards and sanitation methods.

C4. Participate in work evaluations of kitchen workers.

C5. Supervise and transport inmates of off-grounds food service classes and other programs, monitoring inmate activities; assure compliance with security regulations and center policies and procedures.

C6. Teach inmates Food Safety and Safe Food Handling Practices.

10% D. Supervise the care and clean up of kitchen, bakery, dining area and storage areas, kitchen utensils and equipment; maintain proper sanitation standards; ensure security of kitchen; and perform other duties as required.

D1. Maintain all equipment in sanitary and safe working condition.

D2. Instruct inmates in personal cleanliness and maintenance of sanitation in all work areas.

D3. Inspect all work stations periodically for sanitation and safety.

D4. Train inmates in the safe use of all Food Service equipment.

D5. Report to security problems that arise on the shift.

D6. Ensure all security procedures are followed.

D7. Counsel, warn and terminate inmate workers as necessary.

D8. Write conduct and incident reports when necessary.

D9. Monitor inmate activities; assure compliance with security regulations and Center policies and procedures.

D10. Ensure that all kitchen equipment is secured in a safe and secure manner.

D11. Perform other duties as required.

As the DOC personnel managers testified at the hearing, the FPA 2 definition quite specifically identifies appellant's position as "very responsible food production lead work . . . responsible for the operation of a food distribution and production unit on a continuing basis in one of the State Correctional Camps." (emphasis added) This is exactly what appellant's position entails, except to the extent that since this class specification was implemented in 1973, the nomenclature "camps" has been superseded by the term "centers."

An example of a position in the FPA 3 classification and allocation pattern is that occupied by David Cieszynski at the St. Croix Correctional Center. In addition to responsibility for the food service operation at St. Croix, which is a larger institution than Flambeau, he is responsible for "regional coordination of Center System menu planning for the Flambeau, Gordon and St. Croix Centers." The latter responsibility is a significant basis for distinguishing his position from appellant's. In addition, he is not only (like appellant) responsible for directing and overseeing the activities of a large number of inmate food service workers, but he also has a larger operation at St. Croix, and serves as the lead worker with respect to another classified civil service employe, classified as FPA 2, at St. Croix.

Appellant contends that the presence of the FPA 2 at St. Croix makes Mr. Cieszynski's job easier because he has someone to share the responsibilities for the food service operation there, while she does not. However, the added classified staff also can be viewed as consistent with the larger size and more extensive scope of the program at St. Croix, as well as Mr. Cieszynski's added responsibilities reflected in

Goal B (15%) of his PD, "Coordination of regional Center System menu planning, orientation of new food service staff, update staff on dietary changes." It also is the case that the FPA series is a lead worker series, and as such it recognizes the added responsibility for being the lead worker for more employees. Mr. Cieszynski testified at the hearing that his work is very similar to appellant's with the exception of his site visits to other centers for which he has responsibility. While the positions obviously are similar in many respects, the differences in lead work responsibilities and the scope and size of the programs distinguish them for classification purposes. The class specifications control the classification of positions, and the Commission's role is to review classification decisions within the parameters of the class specifications.¹ See, e.g., *Zhe v. DHSS & DP*, 80-0285-PC, 11/19/81; affirmed by Dane County Circuit Court, *Zhe v. WPC*, 81-CV-6492, 11/2/82. Appellant argues that the FPA 2 class specification does not refer to the oversight of inmates, which is of course a big part of her job. However, as Ms. Miller testified on behalf of DOC, the FPA 2 class specification, as interpreted by DOC, implicitly recognizes appellant's work with inmates because it gives her credit for being a lead worker based on her direction of inmates, and notwithstanding that she has no lead work responsibility as to classified civil service employees.

As reflected in appellant's two PD's, and as elaborated on in appellant's testimony, her duties and responsibilities have changed substantially over the period from 1991 to the present. For example, the number of inmates has increased and the inmates themselves are more difficult and harder to manage. As Mr. Thompson testified on behalf of DOC, these are "industry" type changes. The current FPA class specifications do not recognize these kinds of changes. The classification survey currently in progress is the means of addressing changes of this nature.

¹ As discussed further below, DER is in the process of conducting a classification survey that includes these classifications. The survey process is the means of addressing changes in the vocational field which may require conceptual changes in the class specifications.

ORDER


Respondent's action denying the reclassification of appellant's position from FPA 2 to FPA 3 is affirmed and this appeal is dismissed.

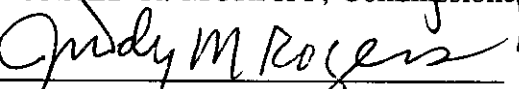
Dated: July 20, 1999.

AJT:rjb:990001Adec1

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