

DONNA L. SANFORD,
Appellant,

v.

**Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,**
Respondent.

FINAL DECISION AND
ORDER

Case No. 99-0057-PC

This case is before the Commission following the promulgation of a proposed decision and order pursuant to §227.46(2), Stats. The Commission has considered the parties' objections and arguments and consulted with the hearing examiner. The Commission now adopts the proposed decision and order as its final disposition of this matter with the following changes and observations.

Appellant objects to the proposed decision's reference on page 5 to Roger Frey's position description (PD) as in the ES *Journey* classification. Perusal of the record reflects that appellant is correct and the reference should be to ES *Senior*, and the Commission makes this correction. However, this change does not affect the outcome of this appeal. The skills and knowledges in Frey's ES-Senior PD might reflect a higher level of engineering acumen and abilities than would be the case for an ES-Journey position, which is the level appellant seeks. However, Frey's PD reflects the emphasis on the specialized skills and knowledge involving the field of engineering in the ES series, regardless of the fact that the ES-Senior level may have a more advanced knowledge of those skills and knowledge than the ES-Journey level. The ES-Transportation class specification (Respondent's Exhibit 2) is consistent with this. It includes the following qualifications for this series:

Training requirements may include work experience at construction sites or through an apprenticeship. Licensure requirements may include specific types of inspector licenses. Knowledge of mathematics, surveying, drafting and reading and comprehension techniques may be required. Skill may be required in verifying

adherence to construction project plans and specifications; assisting with initial grade staking and measurements of items of work; verifying design manual standards and federal requirements are met; preparing or reviewing detail plans for highway design; preparing geometric computations; and performing standard material tests. The amount of knowledge, education, work experience or specific licensure requirements will be based on an analysis of the goals and worker activities of each position.

The Journey positions in the ES Class Specification have some language that can be viewed in isolation as general in nature and applicable to financially-oriented rather than engineering-oriented activities, but the overall emphasis is on technical types of duties. For example, the District Maintenance Specialist—Journey includes the following training and experience requirements: “knowledge of general, special and winter maintenance activities is required.”

In her objections to the proposed decision, appellant also argues with regard to some of the other duties and responsibilities associated with this series that “I don’t think photogrammetry, materials testing, coordinate processing of plans and estimates, stereo compilation, global positioning systems and photolog operations are engineering decision making positions yet they exist in this series. They are peripheral duties to assist the engineering people as I do.” Appellant has the burden of proof, and the record does not reflect that these kinds of activities are *not* engineering related. In any event, they appear to be more engineering related than appellant’s support activities related to the administration of contract activities.

Appellant also apparently¹ compares her position to a position occupied by Kevin Peiffer, Respondent’s Exhibit 12. She apparently claims the majority of her duties are listed in this PD. The record does not support such a finding. For example, Peiffer’s PD includes Goal F, 8%, “Coordination of State DOT policies and programs with the public, county, town and municipal governments and law enforcement agencies and other state agencies.” Appellant characterizes this as “communicating

¹ Appellant citation to Respondent’s Exhibit 4 appears to be really a reference to Respondent’s Exhibit 12, the PD for Peiffer.

with customers (internal and external)” and states this is something she “also do[es] for a wide variety of things.” (Appellant’s objections to decision, p. 2). However, it is either explicit in the worker activities under this goal—e. g., “Works closely with construction personnel to alleviate potential problems”—or implicit that the kinds of communications relate to the predominant orientation of the work set out in the “position summary”—e. g., “assists in planning, directing and coordinating all maintenance activities performed by contract and county forces on the STH system in the assigned counties.”

Appellant also stresses that some of the goals are seasonal or otherwise non-continuous. The Commission does not see the significance of this. For example, Goal C, 17%, is “Plans, coordinates and directs County personnel in the implementation of the general maintenance activities in the absence of roadway maintenance specialists.” The reasonable interpretation of this is that this goal takes up an average of 17% of the position’s time, notwithstanding there may be some fluctuation of a periodic nature.


ORDER

The proposed decision and order as amended, a copy of which is attached and incorporated by reference, is adopted as the final disposition of this case, and this appeal is dismissed.

Dated: March 21, 2000.

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STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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 per-

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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

DONNA L. SANFORD,
Appellant,

v.

**Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,**
Respondent.

PROPOSED DECISION
AND ORDER

Case No. 99-0057-PC

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), Stats., of respondent's decision to reallocate appellant's position from Program Assistant 3 (PA 3) to Financial Specialist 3 (FS 3) rather than Engineering Specialist-Transportation-Journey/District-Maintenance Specialist (ES) following a survey and the revision of the ES class specification.

DISCUSSION

The Financial Specialist series class specification includes the following under Inclusions (§I.B.):

This series encompasses positions which perform accounting, bookkeeping and auditing duties of routine or limited complexity which do not require extensive knowledge of accounting or auditing theory. Positions allocated to this series audit, code and process vouchers, invoices and other financial documents; receive, document and deposit monies received by an organization; participate in the development and maintenance of automated accounts payable, accounts receivable and other financial systems; prepare and process grant and contract expenditure reports and records; compile financial data for journal entries, reconcile accounts; and produce reports.

The FS 3 definition includes the following:

This is the objective level for positions which process or preaudit invoices, travel and contingent vouchers, participate in the development and maintenance of automated or manual records for all financial data for a specialized program(s) area(s), prepare and process grant and

contract expenditure reports and records, and also perform accounting, bookkeeping and auditing duties of limited complexity or difficulty which do not require knowledge of professional accounting or auditing theory. Positions at this level may train and provide advice, interpretation and information on rules, regulations, policies and guidelines of varying complexity to lower level Financial Specialists. Positions that have been granted preaudit delegated authority for the above transactions would also be included at this level. Delegated authority mandates that the individual is ultimately responsible and accountable for proper controls and the accuracy of each transaction. These audited transactions are authorized to be entered directly into the system without additional review by others. As opposed to Financial Specialist 2 positions, work may not only focus on transaction processing, but also on reporting, preparing reports/schedules and maintaining system integrity that may be done by statistically sampling fiscal transactions.

Positions at this level differ from those at the Financial Specialist 1 or 2 level in that these positions require knowledge of the financial regulations for a broader variety of funding sources and cost distribution patterns; apply and interpret rules and regulations for a broader variety of funding sources and cost distribution patterns; apply and interpret rules and regulations for programs that change or for customized contracts; determine and correct errors in system processing; develop and maintain more complex financial data record keeping systems for a specialized program(s) area(s) and its financial rules and regulations which provide guidelines in addition to those established by the State of Wisconsin Department of Administration, State Bureau of Finance; reference a larger number of more detailed, non-routine, specialized and complex preaudit programs; be responsible for a broader degree of decentralized fiscal transactions within the agency to its divisions, institutions, or campuses; and have frequent contacts with various levels of users both internal and external to the central organization regarding information on the financial system. Positions at this level may also be responsible for investigating and analyzing vendor inquiries regarding payment status and discrepancies; and audit claims for adjustments to previous payments and determine the appropriate action and negotiate a final settlement.

The ES series class specification includes the following:

B. Inclusions

This series encompasses specialized positions at the Department of Transportation which devote the majority of their time and are

responsible for duties related to the engineering support functions to the multi-modal transportation systems. . . .

E. Maintenance

E1a JOURNEY-District-Maintenance Specialist

This is the objective level for positions assisting the District Chief Maintenance Engineer in development, analysis and control of the district state highway maintenance planning, budgeting, reporting and automation efforts. The position provides project level supervision and technical support, serves as a training counselor, and coach to county staff in accomplishing their routine and special maintenance programs. The responsibilities include assisting in program development and review, developing reports including an annual report. Serve as Section Pavement Management Program user and analyst. Serve as resource person for Utility and Advertising permits and to area supervisors in program delivery, program planning and evaluation, pavement management systems, budgeting, spreadsheet and database management using a PC, statistical analysis and financial systems for the district STH maintenance program and knowledge of general, special and winter maintenance activities knowledge is required.

The position summary for appellant's position is as follows:

Provides direct maintenance section office management assistance, including developing and implementing procedures, reviewing and submitting various pay invoices and maintaining documentation and records for the District Chief Maintenance Engineer, his supervisors and staff in the administration of maintenance contracts. Manages and implements all aspects of the Adopt-a-Highway program. Manages and implements the salt purchasing program at the district.

This position also has the responsibility of developing, implementing, and coordinating computer data processing programs. These programs provide for documentation, compiling lists of reports and record keeping for maintenance administration.

This position requires extensive knowledge of maintenance contract administration, office procedures, accounting and record keeping. Good oral and written communications skills are necessary for contacts with the public, federal, state, county, city, village and town governmental units, contractors, and District personnel.

The thrust of appellant's case is that she does not perform many of the Financial Specialist examples of work performed, but she does perform many of the ES activities. The Commission does not find appellant's contentions persuasive. The entire class

specification must be analyzed and applied in the context of the meaning embodied in the entire document, as opposed to focusing in isolation on specific language that is relatively generic in nature.

The FS class specification is intended to cover a wide range of positions involved in a wide range of activities. That appellant does not engage in many of these activities is generally probative of appellant's contention that her position should not be in the FS series, but it is evidence that does not carry much weight under the circumstances. Appellant may not engage in a number of the examples of work performed, but she does engage in activities which constitute a significant part of the FS series. Seventy five percent of her PD involves assisting in the management of maintenance contract activities, and management and maintenance of contract record keeping. This involves such things as data processing, record keeping, reviewing and processing contract invoices and estimates, updating invoices and estimates of quantities, and developing new ways of tracking maintenance reports. These activities fit well within the kinds of activities set forth in the FS class specification. The kind of assistance and support appellant renders is administrative, financial and data processing in nature, as opposed to involving engineering tasks.

Appellant has to have and use some substantive knowledge about the programs administered to do her work, and to that extent the work relates to some degree to engineering activities, but she is not responsible for making actual engineering-related decisions. For example, her work in the administration of salt contracts involves the determination and assessment of the liquidated damages provisions in the contracts, but the substantive determinations of contract compliance are made by Engineering Specialists. As an example of this, appellant may be involved in the process of assessing liquidated damages against a vendor based on salt not meeting the contract specifications for moisture content, but she is not responsible for making the determination that the salt has too high a moisture content.

In addition to the 75% of appellant's position discussed above, there is 20% allocated to managing the district "Adopt-A-Highway" program. While this work is

not financially-oriented, neither is it engineering-oriented. As respondent contends, this work falls into the Program Assistant area.

The ES class specification has some relatively generic language that, viewed in isolation, could apply to a range of positions that have nothing to do with engineering. For example, this class specification includes: "The responsibilities include assisting in program development and review, developing information for budget development support, and developing reports including an annual report." Whether a position involved in these activities performs predominantly engineering work, information management work, or clerical work would depend on the programs involved and the nature of the assistance rendered by the position in question. In appellant's case, she is providing assistance that is predominantly administrative/financial in nature. Her substantive input into the district's engineering related programs is limited. The kind of assistance she provides does not involve making engineering decisions. Those decisions are made by individuals whose positions are in engineering-related classifications, such as ES and professional engineers.

Another factor that significantly supports respondent's classification of the appellant's position in the FS series rather than the ES series involves required knowledges and skills. Included in this category in appellant's PD are such things as advanced computer skills, knowledge of policy and procedures related to the contract process, basic understanding of the CHEMS (County Highway Expenditure Microcomputer System) program, knowledge of accounting practices and procedures, and record keeping methods. The PD for Roger Frey's position, classified as ES Senior, includes the following skills and knowledge:

1. Thorough knowledge of engineering principles and practices; the Standard Specifications for Road and Bridge Constuction as published by the Wisconsin Department of Transportation; Departmental policies which govern design, construction and maintenance of all types of highways, bridges and other miscellaneous facilities.
2. Basic engineering background of surveying, design, construction, materials and highway maintenance techniques.

3. Ability to work with County staff to determine the required needs to maintain the integrity of the existing roadway system.
4. Ability to make sound recommendation and/or decisions based on engineering basics when field reviewing areas of concern.
5. Ability to do cost estimates and analyze for needed maintenance projects and to monitor and administer these projects.
6. Ability to interpret new construction and as built plans, design specifications, right of way plats, and material specifications to ensure work is completed in accordance with applicable standards.
7. Ability to convey and interpret to the general public the intent of as built plans, departmental policy, specifications and safety impacts.
8. Ability to establish and maintain effective working relationship with associates, subordinates, other agencies, counties, elected officials and the general public.

This enumeration is far more technically-oriented than appellant's, and illustrates the fundamental differences between the ES and FS series. In a related vein, appellant's supervisors testified that appellant's work is predominantly oriented to financial and data processing areas, as opposed to engineering areas.

ORDER

Respondent's decision to reallocate appellant's position to FS 3 rather than ES-Transportation-Journey-Maintenance Specialist is affirmed and this appeal is dismissed

Dated: _____, 2000.

STATE PERSONNEL COMMISSION

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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
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