

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LOIS GERSTMEYER, Appellant,

v.

**Secretary, WISCONSIN DEPARTMENT OF HEALTH SERVICES and Director,
OFFICE OF STATE EMPLOYMENT RELATIONS**, Respondents.

Case 2
No. 68449
PA(der)-236

Decision No. 32930

Appearances:

Lois Gerstmeyer, appearing on her own behalf.

Paul Harris, Assistant Legal Counsel, Department of Health and Family Services, 1 West Wilson Street, P.O. Box 7850, Madison, Wisconsin 53707-7850, appearing on behalf of the Department of Health Services and the Office of State Employment Relations.

DECISION AND ORDER

This case is before the Wisconsin Employment Relations Commission on an appeal of a denial of a request for reclassification of the position occupied by Lois Gerstmeyer by the Department of Health Services on November 10, 2008. In a prehearing conference conducted on May 27, 2009,¹ the parties stipulated to the following formulation of the issue:

Whether Respondent's decision, effective May 27, 2007, to deny the request to reclassify the Appellant's position from Office Associate to Office Operations Associate, was correct?

At the prehearing conference, the parties also agreed to schedule the hearing on July 16, 2009. Subsequently, John R. Emery, a member of the Commission's staff, was assigned as Examiner and conducted the hearing. The hearing was recorded. The record reflects that during the hearing, both parties were afforded the opportunity to call witnesses to testify in support of

¹ The Commission has modified this sentence in the proposed decision to reflect the correct date of the pre-hearing conference.

their positions, to offer documents to be received into the evidentiary record, and to freely cross-examine witnesses. As an unrepresented party, Ms. Gerstmeyer was afforded the opportunity to testify and make statements on her own behalf throughout the hearing.²

The parties established a briefing schedule, which was completed by September 11, 2009, whereupon the record was closed. The hearing examiner issued a proposed decision on December 11, 2009. Written objections were filed by the Appellant and the final date for submitting a written response was February 12, 2010.

The Commission has modified the proposed decision in order to more fully address the Appellant's arguments and to clarify the basis for decision. The changes include setting forth additional language from the two relevant classification specifications. Other changes are identified by footnote. For the reasons set forth below, the Respondent's decision is affirmed.

Lois Gerstmeyer, the Appellant herein, has worked for the Department of Health Services (herein DHS) since July 10, 2000, and is currently employed by DHS at Wisconsin Resource Center. Her position was reallocated to the Office Associate classification in 2005. Her position is categorized by the Office of State Employment Relations (OSER) in pay range 02-09. Her direct supervisor is DHS Security Director Mario Canziani.

Wisconsin Resource Center is a correctional and in-patient facility operated by the Wisconsin Department of Corrections (DOC) and staffed by employees of both DOC and DHS. There are approximately 600 staff at the Resource Center, approximately 500 of whom are employed by DHS and approximately 100 of whom are employed by DOC. The Resource Center houses approximately 400 inmates who have been transferred from other correctional facilities. Most inmates suffer from developmental disabilities or chemical dependencies. Many were committed under the sexual predator law, Ch. 980, Wis. Stats.

In May 2007, Ms. Gerstmeyer filed a request with DHS for a reclassification to Office Operations Associate, which was denied on November 10, 2008.

On November 21, 2008, Ms. Gerstmeyer appealed the denial of her request.

During the relevant time period, Ms. Gerstmeyer spent roughly half of her work hours providing program support for the inmate disciplinary process at the Resource Center. This included processing inmate conduct reports; scheduling hearings; coordinating advocate and hearing officer schedules; completing paperwork related to conduct reports; keeping track of

² The Commission adds the last two sentences to address Ms. Gerstmeyer's objection that she was not afforded an adequate opportunity to present her case in the hearing. A review of the recording of the hearing clearly demonstrates that the hearing examiner provided an adequate opportunity for her to present evidence and testify.

timeliness issues; tracking information using databases; calling witnesses to check their availability; distributing and collecting questionnaires in preparation for hearings; collecting, formatting and distributing dispositions following hearings; calculating inmate segregation time and issuing notifications upon release; contacting individuals regarding temporary lock-up issues; calculating time for temporary lock-ups; providing notice when an inmate should be released from temporary lock-up; and preparing paperwork when inmates are released from temporary lock-up. The remainder of the Appellant's time was split between various support services and providing assistance to the Resource Center's Security Director and the security staff, helping with a variety of aspects of the inmate/patient phone system, and processing incident reports. These duties included answering phone calls from both agency and non-agency individuals, contacting the phone system vendor regarding technical issues, answering inquiries regarding the phone system, and performing various office duties.³

The relevant classification specifications provide that "(c)lassification decisions must be based on the 'best fit' of the duties within the existing classification structure. The 'best fit' is determined by the majority (i.e., more than 50%) of the work assigned to and performed by the position when compared to the class concepts and definition of this specification or through other methods of position analysis."

The class specification for Office Associate describes the position as involving "routine office support work performed under close to general supervision." Employees "perform a variety of basic office support tasks consistent with established office and agency policies and procedures with little or no ability to change the procedures. The activities are routine in nature and require little discretion as the work processes and routines are well defined and easily quantifiable." The class specification includes the following:

This is routine office support work performed under close to general supervision. Positions are located within any size work unit in an agency or on a campus and must be familiar with the organizational structure to complete tasks. They may be involved in work assignments with several interrelated operating units and may lead lower level classified staff, student workers or limited term employees. Positions perform a variety of basic office support tasks consistent with established office and agency policies and procedures with little or no ability to change the procedures. The activities are routine in nature and require little discretion as the work processes and routines are well defined and easily quantifiable.

³ The Commission has substituted this paragraph for an extensive quotation in the proposed decision from Ms. Gerstmeyer's most recent position description. The quoted position description post-dated the May 27, 2007 effective date of the decision being appealed and it reflected some duties that were not permanently assigned to the Appellant's position until after the effective date. The substituted language is an accurate, albeit less specific, description of the Appellant's relevant duties.

Positions in this classification perform any combination of the basic office functions described below, for a majority of the time.

Copying: operating a high volume copy machine; high volume copying; performing minor maintenance on a copy machine; or operating, maintaining, and performing preventive maintenance on bindery and copy machines; copying and/or preparing materials to be sent for copying or printing; assuring bills and/or copying account are processed appropriately, and distributing the copies as required.

Desktop Tasks: maintaining logs, attendance records, or simple databases; batching documents; calculating time cards; performing routine daily case and/or check receipt audits; entering data and running reports from routing databases or programs (no writing queries, creating or modifying formats); logging and entering applications; etc. Interaction with the software or program is very limited. At times the user is prompted for information by the program. Programs may be specific to the state or agency.

Document Production: (using standard word processing software such as Microsoft Office Word or comparable programs) typing correspondence for staff; editing and proofing letters, memos, and reports for grammar, spelling, punctuation, and format; preparing correspondence for staff or supervisor's signature; establishing formats for various reports, mailing lists, form letters, tables or charges; maintaining files of assignments; and developing various printouts and statistical tables.

File Maintenance: creating individual files and labels, drop filing, pulling files as requested; preparing alphabetical, or numerical files; maintaining database files; searching for documents as requested; pulling files for incoming correspondence; maintaining orderly storage of files; maintaining cross reference files; purging files; preparing records boxes for shipment to or retrieval from the State Records Center; making arrangements for pickup and delivery of records; maintaining record inventory logs; and reading requests for file information.

Fleet: keeping track of fleet vehicles; assigning state vehicles to staff; determining availability, explaining other options available; assuring the timely maintenance of cars; requesting a fleet vehicle; and processing related paperwork.

Forms: processing simple forms, reviewing program-related forms for completeness, answering routine questions, maintaining a database from completed form responses, or comparable.

Lead Work: training, assisting, guiding, instructing and assigning and reviewing the work of two or more permanent employees in the work unit and may lead students and LTEs. Note: Competition is required for first time permanent assignment of leadworker duties to any position.

Mail: opening, sorting and distributing mail, collating materials, or preparing for outgoing mail; date stamping and forwarding to appropriate staff; responding in writing to routine requests for information, including approved open record requests; coordinating outgoing mail and/or mass mailings; sending mail certified or with other special requirements; assuring correct postage is on outgoing mail; operating scale and postage meter; forwarding faxes to appropriate staff; and sending faxes as requested.

Meetings: preparing and distributing meeting minutes; preparing materials for distribution at meetings; updating staff at meetings regarding new processes or procedures for administrative functions; setting up audiovisual equipment for meetings; maintaining official files of the committee correspondence and meetings; assisting in organizing workshops and in-service meetings; developing handouts, agendas, and other material as requested; scheduling facilities and rooms; and making catering arrangements as necessary.

Miscellaneous: making service calls; acting as cashier in a state operated parking facility; ordering routine supplies and/or maintaining inventories; identifying the source for and ordering special supplies.

Reception: taking messages; screening and directing incoming calls to the appropriate individual or business area; providing routine information and responding to routine inquiries; performing switchboard and/or paging duties; screening, receiving, logging in, and directing visitors; assigning security and parking; arranging for escorted building access; and accepting special deliveries.

Scanning: preparing documents for scanning by checking for accuracy, readability and completeness, removing all paper clips, etc., and ensuring documents are not folded or torn; annotating each document with date and time of receipt and other necessary markings, ensuring attachments are indicated; determining document types and priorities for processing; preparing the scanner and scanning the documents while reviewing the image screen to ensure clarity; and performing quality control of the scanned documents and rescanning, if necessary.

Scheduling: scheduling rooms, people, appointments, classes, or campus visits; scheduling meetings between public and staff; scheduling multiple staff and rooms for meetings; and maintaining schedule calendars for staff.

Tracking: developing simple reports, or tracking specific information; maintaining a procedure for assigning the tracking of internal issues and projects; updating related databases as needed; preparing simple reports from databases; assuring the information submitted is complete; maintaining a complaint log, and assuring responses are completed timely.

Travel: assisting staff with travel arrangements by car, rail or air; making hotel accommodations; using the internet to find travel information and/or to make reservations; assuring requests are completed appropriately and submitted to appropriate office; and assuring payment of travel has occurred. Positions may monitor monthly travel vouchers and vehicle mileage logs submitted by staff for accuracy and completeness.

The class specification for Office Operations Associate describes the position as involving “complex office support work performed under close/limited progressing to general supervision.... The duties assigned to positions at this level require analytical or independent reasoning and are more complex than those performed within the Office Associate classification.” Further, the class specification requires that a “majority of duties performed at this level must include any combination of complex program-related functions or complex administrative functions [as defined by the specification].” The specification includes the following:

This is complex office support work performed under close/limited progressing to general supervision. The majority of duties performed at this level must include any combination of complex program-related functions or complex administrative functions as defined below. Positions may also function as leadworker to other staff within the work unit. The duties assigned to positions at this level require analytical or independent reasoning and are more complex than those performed within the Office Associate classification. The consequence of error is greater than that of the work described at lower levels. Personal contact with employees, supervisors and the general public is common. Performance of the tasks requires extensive contact with operating units within and outside the agency or campus and occasionally between agencies or campuses. Working relationships are maintained with professional program staff and administration staff such as Accountants, Budget and Policy Analysts, Auditors, Purchasing Agents, etc.

COMPLEX PROGRAM-RELATED FUNCTIONS:

Complex program-related support functions require applied knowledge of program policies and procedures rather than general office practices. Positions often have to apply the complex administrative functions described below in program areas, where there may be unique clientele, employees, and program-specific procedures. Positions review program-related documents to determine if they meet minimum program requirement(s) or criteria such as reviewing, approving and processing application for permits, licenses, certifications, etc.; reviewing documents for compliance with standards before submission for the next step in the process; coordinating scheduling/due dates to meet compliance standards for contract submission; and analyzing documents and compiling program-specific data. Positions search systems (databases) for historical information; function as vendor liaison on program-specific software, supplies or services; record contacts with public/applicants/constituents; and enter program data into appropriate databases and manipulate it for desired reports. Positions develop and maintain tracking systems and projects; respond to program-specific questions; request identification as required; and determine and collect required program fees. Positions establish and maintain case files; maintain electronic records of all program information, such as inspection reports, license requests, etc.; enter appropriate codes and information; and ensure files are complete.

COMPLEX ADMINISTRATIVE FUNCTIONS

Communications: logging and tracking requests for information from constituents, the Governor, legislators or other high ranking campus officials; determining the required response date, appropriate staff assignment, and appropriate signature; assuring timely completion; and reviewing the response for established standards. Duties may include receiving and or making calls to public or private offices to receive, provide, or exchange program information.

Fiscal: auditing expense vouchers, completing appropriate forms for money-checks received, submitting required documentation to the agency or campus budget office, reconciling budget items for general service expenditures; providing accounting support; monitoring and reviewing fiscal reports and invoices/vouchers; entering information into the automated purchasing or procurement system; implementing appropriate action and payment mechanisms; auditing monthly records of office's assigned credit or procurement card; completing and submitting fiscal vouchers to the agency/campus budget office.

Human Resources/Payroll: verifying leave types and balances, informing staff of employee benefit options and programs; documenting and processing information regarding work-related accidents and injuries, and workers compensation reports; providing human resources liaison support for Family Medical Leave Act, memorial fund, leaves of absence, agency database updates, and other programs; referring unanswered employee-related questions to the appropriate point of contact such as human resources or employee benefits administrators; completing personnel transactions on forms or on-line; assisting with new employee orientation activities; and coordinating and monitoring the employment interview process.

Lead Work: training, assisting, guiding, instructing and assigning and reviewing the work of two or more permanent employees in the work unit. Note: competition is required for first time permanent assignment of leadworker duties.

Purchasing: maintaining inventory levels; corresponding with vendors to verify items and prices; preparing reports for purchasing agents; using automated inventory and purchasing system; and providing guidance to staff on procurement policies and procedures.

Staff and Resource Services: supporting the physical environment and resources of the unit; coordinating an office move; providing general telecommunications support; participating in space management activities, including expediting systems/furniture requests; procurement of equipment and office supplies; responding to requests and complaints from program staff regarding work environment conditions (temperature, lights, sound, parking, safety, etc.); and acting as the liaison with service vendors and contractors maintenance staff.

Technology maintenance: acting as the liaison between staff and information systems staff, provide hardware/software support to users of various applications; updating and publishing specific web pages; converting files for web pages; using complex desktop publishing and graphics software; using multiple on-line databases; entering specific data into complex computer databases; writing queries; assuring back up of all files and deleting files when they are no longer required; initiating and creating tables in Microsoft Access or other comparable programs and linking to tables to provide staff with various reports and information; training staff on hardware and software packages; functioning as a resource person regarding laptop/automation questions and problems; downloading files onto laptops, including software such as MS Office, virus scan, Outlook applications, etc.; instructing staff on the use and application of forms; and attending meetings, workshops, team meetings and training sessions regarding hardware and software.

The position descriptions of Mary Ann Piotrowski (nee Miller), an Office Associate at Southern Wisconsin Center, and Lisa Tetzlaff, an Office Operations Associate at Wisconsin Resource Center, were offered for comparison purposes. An analysis of the positions indicates that the duties of Ms. Piotrowski's position were comparable to Ms. Gerstmeyer's, whereas Ms. Tetzlaff's were not.

More than 50% of Ms. Gerstmeyer's duties "best fit" the Office Associate classification.⁴

ORDER

The decision of the Respondent to deny the Appellant's reclassification request is affirmed and the appeal is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 3rd day of June, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

⁴ The Commission has modified this sentence to remove an ambiguous reference to the Appellant's position description.

Department of Health Services and Office of State Employment Relations (Gerstmeier)

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Legal Framework

This matter arises under Sec. 230.44(1)(b), Wis. Stats., which provides:

230.44 Appeal Procedures. (1) APPEALABLE ACTIONS AND STEPS. Except as provided in par. (e), the following are actions appealable to the commission under s. 230.45(1)(a):

(b) *Decision made or delegated by secretary.* Appeal of a personnel decision under s. 230.09(2)(a) or (d) or 230.13(1) made by the secretary or by an appointing authority under authority delegated by the secretary under 230.04(1m).

Sec. 230.09(2)(a) provides as follows:

After consultation with the appointing authorities, the secretary shall allocate each position in the classified service to an appropriate class on the basis of its duties, authority, responsibilities or other factors recognized in the job evaluation process. The secretary may reclassify or reallocate positions on the same basis.

As provided in Sec. ER 3.01(3) Wis. Adm. Code, a reclassification is:

The assignment of a filled position to a different class by the administrator as provided in Sec. 230.09(2) Stats., based upon a logical and gradual change to the duties or responsibilities of a position . . .

The Wisconsin Employment Relations Commission has jurisdiction to conduct a *de novo* review of an appeal as to the correctness of a reclassification decision, but the burden of proof is on the appellant to establish by a preponderance of the credible evidence that the respondent's decision that the appellant's position should remain in its classification was in error. *DILHR v. PERS. COMM.*, 85-CV-3206 (Dane County Cir. Ct., 7/29/86); *HARDER v. DNR & DER*, CASE NO. 95-0181-PC (Pers. Comm., 8/5/96) When analyzing the reclassification, the Commission must focus on duties assigned to the position on the date of the reclassification request. Duties performed in the past that are no longer assigned to the position, and temporary duties not likely to continue into the foreseeable future, may not be considered. *SCHMIDT v. SEC. OF STATE & DER*, CASE NO. 91-0129-PC (Pers. Comm., 1/11/91); *GUTIERREZ v. DOT & DER*, CASE NO. 96-0096-PC (Pers. Comm., 4/11/97).

Further, while it is recognized that most positions encompass duties that may fit in a number of different classifications, the proper classification of a position is to be determined by those responsibilities that consume a majority of the position's time. The addition of higher level duties only justify a reclassification to the higher level if a majority of the position's duties satisfy the criteria for reclassification to the higher level. *DUNN-HERFEL V. DOJ & DER*, CASE No. 94-0043-PC (Pers. Comm., 12/14/94).

Reclassification

In this case the Appellant, Lois Gerstmeyer, is employed by the Department of Health Services (DHS) at the Wisconsin Resource Center in Winnebago, Wisconsin. She is assigned to the Security Department at the Resource Center and is supervised by the Security Director, Mario Canziani.

The Resource Center is a facility operated by both the Department of Corrections and the Department of Health Services and houses incarcerated inmates as well as sexually violent patients. The Center's dual function makes it an unusual facility. Ms. Gerstmeyer is the only person in her agency who performs the identical set of job duties.⁵

Her position was reallocated to the Office Associate classification as a consequence of a classification survey that was effective in 2005. Ms. Gerstmeyer filed a request for reclassification in 2007 seeking to have her position reclassified to Office Operations Associate. Her request was based in part on her perception that her position had been incorrectly classified as an Office Associate in 2005 and in part on her belief that her job duties had expanded over time and more correctly fit the Office Operations Associate classification.

The Appellant described the various tasks that are involved in performing her job. With respect to the two areas that make up the majority of the position's work – program support with respect to inmate discipline and processing incident reports - the Appellant is responsible for much of the logistical work. This includes such things as contacting witnesses, advocates and hearing officers; scheduling hearings; gathering questions from inmates; making sure DOC timelines are observed; entering information into the department database; taking notes at hearings; preparing disposition documents and obtaining signatures; informing staff of the segregation status of inmates in temporary lockup and maintaining the Security Department records.⁶

⁵ The Commission adds this paragraph to more fully reflect the record.

⁶ The Commission has deleted those portions of this paragraph in the proposed decision that referenced Appellant's position description. There were a variety of position descriptions admitted into the record but no clear evidence on which to specify the actual duties that Appellant was performing as of the May 27, 2007 effective date.

The Appellant works independently much of the time. She exercises independent reasoning in some of the tasks that she performs. For example, when scheduling inmate disciplinary hearings, Ms. Gerstmeyer will note if there are individuals who will be present at the hearing who have a history of conflict within the facility. Her analysis of such situations allows those individuals to be kept separate so as to maintain order in the hearing. However, she does not exercise comparable judgment in a significant percentage of her duties.⁷

While a Program Assistant Advanced – Confidential position was vacant, Ms. Gerstmeyer temporarily performed some of the duties of that position and since the position was filled in April 2009 she has helped to train the new employee, Patricia Stenz. A number of duties that had been part of the Program Assistant Advanced – Confidential position have been added to Ms. Gerstmeyer’s position,⁸ including: coordinating advocate assignment workloads; logging, securing and disposing of evidence in accordance with institution policy and hearing committee dispositions; taking photographs of evidence and keeping them on file; maintaining a video evidence database; calculating appropriate segregation time and entering it into the database; tracking and notifying departments of inmates to be removed from segregation; updating reports and transferring them to the intranet folder; tracking assignments or investigations assigned to staff by the Security Director from incident reports; and compiling climate report data from staff and creating a weekly climate report for the Director’s signature. These duties are not of a confidential nature and most if not all fall within the definition of general duties that are included in the Office Associate class specification.⁹

The Classification Specification for the Office Associate position provides that “classification decisions must be based on the ‘best fit’ of the duties within the existing classification structure. The ‘best fit’ is determined by the majority (i.e., more than 50%) of the work assigned to and performed by the position. . . .” The specification further describes the work performed as “routine office support work performed under close to general supervision.... Positions perform a variety of basic office support tasks consistent with established office and agency policies and procedures with little or no ability to change the procedures. The activities are routine in nature and require little discretion as the work processes and routines are well defined and easily quantifiable.” The listed tasks consistent

⁷ The Commission adds all but the first sentence of this paragraph to more fully explain the nature of Appellant’s responsibilities.

⁸ The Commission modifies the first two sentences of this paragraph to more fully respond to Ms. Gerstmeyer’s arguments regarding the added duties. Although the record is unclear as to when these duties were permanently added to Ms. Gerstmeyer’s position, by her own admissions they were added after the relevant effective date and are therefore technically irrelevant to the analysis.

⁹ The Commission adds the last sentence in this paragraph to respond to the Appellant’s arguments about “confidential” duties. That term has a specific meaning for classification purposes that is consistent with how the term is used in the phrase “confidential matters affecting the employer-employee relationship” in Sec. 111.81(7), Stats.

with this position include photocopying; maintaining logs, records and databases; document production; file maintenance; processing forms; opening, sorting and distributing mail; preparing materials for distribution at meetings; preparing and distributing meeting minutes; and handling scheduling tasks such as reserving rooms for meetings, contacting individuals, maintaining calendars and setting up appointments.

In contrast, the Classification Specification for Office Operations Associate describes “complex office support work performed under close/limited progressing to general supervision.” It further specifies that a majority of the duties performed by an Office Operations Associate position must include a combination of complex program-related functions and/or complex administrative functions. Such functions “require analytical or independent reasoning and are more complex than those performed within the Office Associate level.” It is necessary for the employee to have applied knowledge of program policies and procedures rather than general office practices and the position has greater independence and discretion. The types of functions included in this description are such things as: reviewing program-related documents to determine if they meet minimum program requirements; reviewing, approving and processing applications for permits, licenses and certifications; reviewing documents for compliance with standards; coordinating and scheduling due dates to meet compliance standards for contract submission; searching databases for historical information; functioning as vendor liaison on program specific software, supplies or services; recording contacts with the public; entering and manipulating data in databases; developing and maintaining tracking systems and projects; responding to program specific questions; determining and collecting required program fees; establishing and maintaining case files; maintaining electronic records of all program information; entering appropriate codes and information; and ensuring that files are complete.

Ms. Gerstmeyer argues that since 2005, her position has actually consisted of 65% of her work being related to the Inmate Disciplinary Process alone. Even if this is true,¹⁰ the duties involved within these functions are primarily clerical in nature and involve very little, if any, discretion over modification of policies and procedures. Comparing these duties to the definitions contained within the classification specifications, most fall within the functions outlined in the Office Associate specification. A significant portion of her duties fall in just a few of the categories, namely Desktop Tasks, Document Production, Forms, and Tracking. She maintains, enters data and runs queries on simple databases, some of which are specific to her agency. She types, edits and proofs correspondence for staff signature and maintains files related to assignments. She processes program specific forms, reviewing them for completeness, answers routine questions and enters information produced on the forms into databases. She tracks specific information, updates databases, prepares simple reports, and assures timeliness. These are all responsibilities that are better described by the Office Associate classification.¹¹

¹⁰ The Commission has replaced language from the beginning of this paragraph to clarify that the 65% time allocation is an argument advanced by the Appellant rather than a fact established at hearing.

¹¹ The Commission has added the last seven sentences to this paragraph to more completely explain our rationale.

Very few of Ms. Gerstmeyer's duties, and certainly not a majority, involve the complex program-related functions or complex administrative functions that are included in the definitions of the Office Operations Associate classification specification.¹² For example, there was no significant evidence produced to indicate that she develops or maintains tracking systems, analyzes documents, or manipulates data for reports. Neither does she engage in any of the fiscal, human resources/payroll, technology maintenance, lead work, nor purchasing functions. This is not to diminish the fact that there are some tasks that Ms. Gerstmeyer performs that fall within those categories. As described above, she does use independent reasoning when performing certain specific tasks. Also, she acts as liaison with the phone system vendor. Overall though, her duties more closely equate to the Classification Specification for an Office Associate than they do to that of an Office Operations Associate. Under a "best fit" analysis, therefore, the majority of Ms. Gerstmeyer's duties are more appropriate to the position of Office Associate.¹³

As described above, Ms. Gerstmeyer occupies a unique position within an unique facility of the DHS which makes it difficult to make direct comparisons to other employees. However, DHS presented evidence of two comparables.¹⁴ Mary Ann Piotrowski (nee Miller), fills an Office Associate position at Southern Wisconsin Center, and Lisa Tetzlaff, fills an Office Operations Associate position. The duties of Ms. Piotrowski's position closely approximate those of Ms. Gerstmeyer, in that she is largely involved in clerical functions such as scheduling appointments and meetings, handling paperwork and mail, making photocopies, typing up reports and meeting minutes and routing and distributing documents and other materials to staff. By contrast, Ms. Tetzlaff's position is responsible for gathering and analyzing information for complex projects, assembling, maintaining updating and sharing medical files and maintaining medical records, which could have serious consequences if done incorrectly. She also is the associate custodian of medical records for the facility. Given the unique nature of Appellant's duties and the very extensive descriptions of responsibilities found in the two classification specifications, we place little weight on these comparison positions.¹⁵

The Appellant has had duties added to her position over time and has significant responsibility. She is a valuable employee. Patricia Stenz has received assistance from the Appellant in learning the duties of her position since she was hired into the Program Assistant

¹² One example of a responsibility that satisfies the language in the higher classification specification was discussed previously. When scheduling due process hearings and coordinating witness availability, Gerstmeyer makes determinations as to whether the presence of specific individuals will potentially disrupt the hearing.

¹³ The Commission has substantially expanded all but the final sentence of this paragraph to more completely explain our rationale.

¹⁴ The Commission adds the first two sentences in this paragraph to better explain the limited role that comparable positions play in our analysis in this matter.

¹⁵ The Commission has replaced the final sentence of this paragraph in the proposed decision because we do not believe there should be significant reliance on comparable positions in this analysis and the proposed decision suggested otherwise.

Advanced – Confidential position. As noted above, however, temporarily assigned duties, or duties which no longer exist, do not justify a reclassification. Even assuming that all the additional duties described by Ms. Gerstmeyer have been added to her position, however, the majority of her duties still are properly identified within the Office Associate classification. The totality of the record speaks highly of Ms. Gerstmeyer’s value to the Security Department at the Wisconsin Resource Center. Nevertheless, in evaluating the evidence we conclude that the Appellant has not met her burden of establishing that her position should be reclassified to Office Operations Associate and that under the “best fit” analysis her position remains most appropriately classified as an Office Associate.

Dated at Madison, Wisconsin, this 3rd day of June, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner