

STATE OF WISCONSIN

STATE PERSONNEL BOARD

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MARY ELLEN O'BRIEN & JON NOVICK,

Appellants,

v.

SECRETARY, Department of Transportation
and DEPUTY DIRECTOR, Bureau of
Personnel,

Respondents.

Case No. 76-85

* * * * *

OFFICIAL

OPINION AND ORDER

Before: James R. Morgan, Calvin Hessert, Dana Warren, Board Members.

NATURE OF THE CASE

Appellant Novick asserts that the Director's reclassification actions on February 1 and December 5 of 1976 were improper and he appeals these actions pursuant to Wis. Stats., § 16.05(1)(f).¹

FINDINGS OF FACT

1. In October of 1973, the appellant began working as a Clerk IV with the Environmental Group in the Bureau of Engineering; Division of Highways; Department of Transportation. His duties were clerical in nature.

2. In January of 1974, the Interdisciplinary Group was formed to succeed the Environmental Group. The function of this new group was to evaluate the environmental impact of highways and other transportation facilities and to provide guidance to district offices in preparing environmental impact assessments

1. Appellant O'Brien reached a negotiated settlement with the respondent prior to the hearing.

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for transportation projects. The group was to be composed of a sociologist, a biologist, an air quality specialist, a noise impact specialist, and a group leader with background in several of these areas.

3. The appellant became a member of the Interdisciplinary Group upon its inception. He functioned as the group's sociologist as well as its authority on historical sites. The appellant remained in a Clerk IV position during this time.

4. In January of 1975, the appellant was appointed to a Research Analyst I position with the group. He continued functioning as the group's authority on sociological and historical matters while also handling archeological considerations.

5. On February 1, 1976, the appellant was reclassified to Planning Analyst I.

6. On December 5, 1976, the appellant was reclassified to Planning Analyst II.

7. Since January of 1975, the appellant's duties and responsibilities have included reviewing and commenting on environmental impact statements—especially in regard to any sociological factors, historical entities, and archeological sites that might be involved; determining the environmental effects of transportation projects; participating in special project work; researching the topic of sociological impact; providing project level assistance to the central office and district staffs on sociological, historical, and archeological matters; and making presentations on historical and archeological site considerations at staff training programs. In addition, the appellant has developed written guidelines to aid district personnel in identifying and dealing with historical and archeological entities and he has begun work on guidelines pertaining to sociological impact assessments of transportation facilities. The only change in duties noted over this period of time is some increase in the amount of project level assistance to district staffs and the central office.

8. The supervision of the appellant has been goal oriented and general in nature since January of 1975.

9. The appellant did not have any pertinent planning and research experience prior to joining the Interdisciplinary Group. He did, however, receive a Bachelor of Science degree in 1969 with a major in sociology and a minor in history. He also completed course work in those disciplines beyond the base minimum degree requirements.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this appeal.

Wis. Stats., §16.05(1)(f).

2. The burden of proof is on the appellant to show to a reasonable certainty, by the greater weight of the credible evidence, that the actions of the Director in reclassifying him on February 1 and December 5 were incorrect and that he should have been reclassified in the manner he now requests.

See Reinke v. Personnel Board, 53 Wis. 2d. 123 (1971).
Ryczek v. Wettengel, 73-26, 7/3/74.
Lyons v. Wettengel, 73-36, 11/20/74.
Alderden v. Wettengel, 73-87, 6/2/75.

3. The appellant has met his burden in regard to the February 1 action but has not met it in regard to the December 5 action. Thus, the proper classification of the appellant's position on both dates should have been Planning Analyst II.

4. The Director's reclassification of the appellant to Planning Analyst I on February 1 must be rejected. His December 5 action of reclassifying the appellant to Planning Analyst II must be affirmed.

OPINION

The appellant asserts that the Director should have reclassified him as a PA* II or III rather than as a PA I on February 1, 1976. He also asserts that he should have been reclassified as a PA III rather than as a PA II on December 5, 1976. The appellant has successfully carried the burden of showing that he should have been reclassified as a PA II on February 1. However, he has failed to carry the burden regarding the propriety of the PA III level on either February 1 or December 5 of 1976. Thus, the proper classification of the appellant's position on both dates in question was PA II.

Performance at the PA I, II, and III levels is distinguished primarily by the complexity and independence of work involved at each level. The testimony of witnesses declared to be experts on the PA series clearly indicates that the specific duties of each of these levels are quite similar but that the manner in which these duties are performed varies as the complexity and independence of work increases from level to level. A review of the position standards verifies this determination. The PA I standard defines this classification as encompassing "beginning training entrance level planning work" under close or strict supervision. It also speaks of assisting in the analysis of data. In contrast, the PA II standard defines this classification as encompassing "professional entrance level planning work" of a difficult nature which is performed under general review. It speaks of analysing data on an individual basis. The PA III standard completes this progression by defining this classification as encompassing "senior professional level planning work" of a highly complex nature which is "performed

* Planning Analyst

independently under general direction." Thus it is evident that the levels reflect a decrease in supervision and a progressive increase in responsibility, complexity of work, and independence of action as one moves from beginning training level work to senior professional level work. They also reflect the accumulation of experience and expertise in planning work.

In addition to this distinction between the PA I, II, and III classifications, a further difference between the levels exists in the training and experience required for entrance to each of the levels. For PA I, a bachelors degree such as the appellant's meets the requirements. For PA II, this degree plus two years of relevant planning or research experience is required. For PA III, the degree and four years of relevant planning or research experience is necessary. In each of these levels, it is stated that an equivalent combination of training and experience may be considered in the alternative. These training and experience requirements are particularly important in a classification series such as the PA series where the accumulation of experience and expertise is a predominant factor distinguishing the various levels of the series.

Applying these different classification criteria to the appellant's position in the Interdisciplinary Group, it is clear that the PA II level would have been the most appropriate classification on both February 1 and December 5 of 1976. First of all, the appellant met the PA II training and experience requirements on both of these dates.² Secondly, the level of his work on these dates merited the PA II classification. The appellant had been functioning as the group's

2. By February 1, 1976, the appellant had accumulated two years and one month of relevant planning and research work. He needed two years of such work in addition to his B.S. degree to meet the requirements.

authority on sociological, historical, and archeological matters for up to two years before the February 1 date. During this time, he had made independent analyses in these areas. In fact, he had prepared the bureau's guidelines for analysis of historical and archeological matters and had been the only sociologist available to the bureau. Furthermore, the supervision of his work had been general and goal oriented in nature. Thus, he had progressed past the PA I "beginning training" level where an employee assists in analyzing data under close or strict supervision. He had progressed to the more experienced and responsible PA II level of performance where more detailed and independent professional planning work is completed under general, goal oriented supervision. Finally, it must be concluded that the PA II level would have been more appropriate than the PA III level on the dates in question because the appellant did not meet the PA III training and experience requirements³ and because the record does not satisfactorily show performance of senior professional level planning work of a highly complex nature by the appellant.

The respondent asserts that the appellant's work on February 1 did not merit the PA II classification because the discipline of sociological impact was relatively indefinite and underdeveloped, because the appellant had not brought about sufficient work in developing a comprehensive approach to that discipline, and because the area was not overly important in environmental impact assessments. However, after considering the appellant's past work in the area of historical, archeological, and social assessments, the respondents' assertion seems to be more relevant to the distinction between the PA II professional

3. In addition to his B.S. degree, the appellant would have needed four years of relevant planning or research work to qualify for the PA III level. On December 5, the latest of the two dates, the appellant still only had two years and eleven months of relevant planning or research work. There was no showing of any equivalent combination of training and experience.

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entrance level work and the PAIII senior professional work than to any comparison with the beginning training level work designated at the PA I level. In fact, a detailed consideration of the situation may well show that sociological impact work is made much more difficult and complex because of the immature state of the discipline and that the level of work in this case must be judged on that basis.


Thus, the appellant has successfully carried his burden of showing that he should have been reclassified to PA II on February 1, 1976 and that the Director's action of reclassifying him to PA I on that date was improper. He has not, however, successfully carried his burden with regard to the December 5 reclassification. Therefore, the February 1 reclassification action must be rejected and the December 5 action must be affirmed. Corrective action in regard to the February 1, 1976 reclassification action may be made effective from that date pursuant to Wis. Stats., § 16.38(4).

ORDER

IT IS HEREBY ORDERED that the December 5, 1976 reclassification action of the Director is affirmed and that the February 1, 1976 reclassification of the appellant to Planning Analyst I is rejected. The Board requests notification from the Director within fifteen calendar days of the date of this decision regarding the nature of corrective action taken.

Dated: May 18, 1978

STATE PERSONNEL BOARD


James R. Morgan, Chairperson