

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 NANCIE YOUNG, *
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 Appellant, *
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 v. *
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 Administrator, DIVISION OF *
 PERSONNEL, *
 *
 Respondent. *
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 Case No. 81-7-PC *
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DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(a), Stats., of the denial of a request for reclassification from Administrative Assistant 4 (AA 4) to Administrative Assistant 5 (AA 5). Following a preliminary hearing on the question of whether the appeal had been timely filed, the Commission in an Interim Decision dated August 26, 1981, held that the appeal was timely.

FINDINGS OF FACT

1. The appellant at all relevant times has been employed in the classified civil service by the Department of Health and Social Services (DHSS) in the office of the Secretary, occupying a position in the Client Services/Civil Rights Compliance office known as the Indian Desk or Indian office.

2. The appellant's position reports to the head of the Client Service/Civil Rights Compliance office (Gladys Corbit) who reports to the executive assistant secretary, who reports to the Secretary (Donald Percy).

3. The duties and responsibilities of appellant's position may be summarized as follows:

A. Overall responsibility to monitor DHSS programs affecting Tribes/American Indians and to make recommendations for effective implementation,

(1) Serves as the principal, but not the only, advisor within DHSS to the secretary on aspects of Indian affairs pertinent to DHSS;

(2) Available as a consultant and technical resource to units within DHSS, tribal governments, American Indians, other governmental agencies, and the general public, with respect to all aspects of Indian affairs related to DHSS;

(3) Acts as a clearinghouse by reviewing all Indian materials, selects and distributes pertinent materials to affected divisions for awareness of new federal/state programs and funding sources;

(4) Represents the secretary at federal, state, and tribal meetings to present the department's positions, recommendations, and programs and advise on statutory changes;

B. Consults with various units in DHSS, tribal and county governments in the development of effective human services programs for Tribes/American Indians,

(1) Serves as liason person with respect to state, federal, tribal, and county agencies in connection with the development of human services programs;

(2) Provides technical assistance and takes leadership in the development of strategies to be used to communicate with tribal governments based on required protocol, to establish a government to government relationship;

(3) Monitors department budget recommendations for programs affecting Tribes/American Indians, and provides technical assistance and makes recommendations to appropriate divisions;

(4) Recommends legislation and administrative rules for effective service delivery to Tribes/American Indians and makes recommendations to divisions to ensure tribal

involvement in the process;

(5) Acts as a liason and facilitator to divisions to ensure that concerns regarding Indian affairs that cross divisional lines are coordinated and effectively addressed;

(6) Consults with tribes/counties to assist them in their planning and establishing a system of operation of programs by tribal government;

(7) Identifies problems of service delivery to non-reservation American Indians and suggests remedial actions, and assists in the development of mechanisms to remedy identified problems for various divisions within DHSS;

C. Monitors divisional programs for effective service delivery to Tribes/American Indians;

(1) Recommends mechanisms and procedures for the facilitation of the communications of divisional activities related to Indian affairs to Tribes/American Indians.

(2) Recommends mechanisms to be used by various divisions for assessing the effects of departmental programs on Tribes/American Indians;

(3) Notifies divisions of problem areas she perceives, and initiates, in the sense of recommending, corrective action for effective service delivery to Tribes/American Indians;

D. Makes recommendations or suggestions regarding the interpretation of federal legislation which impacts on American Indians, and recommends policies and procedures for the implementation of federal mandates,

(1) Provides leadership and consultation at various levels within the department to assist the department in analyzing federal legislation, regulations, program goals and objectives to ensure consistency within the department;

(2) Serves as liason to departmental staff, federal agencies, tribal governments, county agencies, and other appropriate personnel regarding the implementation of all federal laws and policies impacting on Tribes/American Indians;

(3) Monitors departmental policy, procedures, and programs for consistency with federal laws impacting on Tribes/American Indians to maintain appropriate statutory intent; alert

appropriate divisions to perceived problems;

(4) Recommends procedures for communicating federal mandates to departmental staff, counties, tribal governments, and other relevant agencies/organizations;

(5) Recommends manual materials to ensure that orderly, clear, and consistent written procedures are formulated;

(6) Initiates action necessary to correct misinterpretation of mandates to state, county, tribal government, and other appropriate agencies and organizations;

E. Performs special assignments as requested by the secretary; e.g., staff to the Department's American Indian Advisory Committee.

4. The appellant works under general supervision from Ms. Corbit.

5. The appellant has direct access to the secretary-i.e., without first going through Ms. Corbit - for many matters.

6. The position in the Department of Natural Resources (DNR) identified by the working title of Native American Assistant for Indian Affairs, occupied by Robert E. Deer, is classified as an AA 5. This position reports directly to the deputy secretary and includes in summary the following duties and responsibilities:

A. Operation of the Department's Office of Indian Affairs;

(1) Develops, implements and coordinates joint tribal-department projects relating to resource management, environmental protection and law enforcement;

(2) Develops, implements, and coordinates funding programs with any federal, state or local government agencies or private sources to conduct operations of the office and/or undertake joint projects;

(3) Develops statutes, executive orders, administrative codes, and manual codes necessary to carry out the functions of the office.

B. Development, coordination, evaluation and administration of highly diverse and complex departmental policies and programs related to Wisconsin Native Americans,

(1) Provides guidance and recommendations to the secretary's office on all Indian related matters;

(2) Coordinates, evaluates, and directs all department correspondence on Indian related matters to ensure a consistent department approach to Indian issues;

(3) Coordinates and represents the department in Wisconsin tribal meetings and other tribal matters;

(4) Represents the department in regard to all Native American matters and coordinates with federal, state and local agencies and legislative bodies;

(5) Develops and has overall authority to insure implementation of departmental policies, priorities and objectives on Native American matters in coordination with the department's divisions, bureaus, offices and districts;

(6) Conducts seminars and lectures to department staff on Native American policies, opinions and traditional customs;

(7) Meets regularly with tribal governments, tribal religious leaders and tribal members to assess tribal opinions and concerns related to the department and natural resource matters;

C. Reviews and analyzes the effect on the department of legislation, court decisions and legal opinions that relate to Native American matters,

- (1) Reviews and coordinates all department legislation affecting the department and Wisconsin Native Americans;
- (2) Reviews and coordinates the department response to any federal, state or local legislation affecting the department and Wisconsin Native Americans;
- (3) Reviews and evaluates the effect of any court decisions and legal opinions that relate in any manner to the department and Wisconsin Native Americans;
- (4) Reviews Indian periodicals and resource materials for any matters of relevance to the department and Wisconsin Native Americans.

7. The class specifications for Administrative Assistant 4 (Respondent's Exhibit 10) contain the following definition:

This is line supervisory and/or staff assistance work in a state agency or segment of a large state agency. Employees in this class have supervisory responsibilities over a large, moderately complex records processing and maintenance unit involving a variety of functions and having large clerical staffs with a number of subordinate levels of supervision, and/or supervise and perform staff services in records, accounting, personnel, budgeting or purchasing. Employees are responsible for interpretations of laws, rules and departmental policies in carrying out their assigned functions. Work is performed with a minimum of supervision which is received through staff conferences or general written or oral instructions. Employees are expected to carry out assigned functions with a considerable amount of initiative and independence with the results of their work reviewed through oral or written reports and personal conferences.

8. The class specifications for AA 5 (Respondent's Exhibit 11) contain the following definition:

This is responsible line administrative and/or professional staff assistance work in a large state agency. Employees in this class direct an important function of the department and/or provide staff services in management areas such as accounting,

purchasing, personnel or budget preparation. Employees in this class may be responsible for supervising a staff of technical, semi-professional or professional employees in directing the assigned program. Employees have a great deal of latitude in areas of decision making and initiating action within a broad framework of laws and rules. Work is evaluated by administrative superiors through conferences, personal observations and reports.

9. The respondent denied appellant's request for reclassification to AA 5 and a timely appeal ensued.

10. The appellant's position is more closely described by the AA 4 class specifications and more appropriately classified as that classification.

CONCLUSIONS OF LAW

1. This appeal is properly before the Commission pursuant to §230.44(1)(a), Stats.
2. The appellant has the burden of proof.
3. The appellant has not satisfied her burden of proof.
4. The respondent's decision to deny the reclassification of appellant's position from AA 4 to AA 5 was not incorrect.

OPINION

The class specifications for AA 4 and AA 5 utilize very general language. At least partly because of this, an important tool of classification analysis is a comparison of the position in question to other positions.

In this connection, a key comparison is to the AA 5 position in DNR occupied by Robert Deer, which has the working title of Native American Assistant for Indian Affairs. Although this position is similar to the appellant's in many respects, reference to the position description

(Appellant's Exhibit 32) illustrates its higher level of authority and accountability.

The appellant's position is primarily that of a coordinator, facilitator, and advisor, who can make recommendations on policy and programs but generally cannot implement them. While Mr. Deer's position shares many of these aspects, the position description shows that he has the authority for example, to actually "Develop, implement and coordinate joint tribal-department projects ... Develop, implement and coordinate funding programs ... Develop statutes, executive orders, administrative codes, and manual codes" (Emphasis supplied).

Furthermore, Mr. Deer's position reports directly to the DNR deputy secretary whereas the appellant's position reports through the head of the Client Service/Civil Rights office who in turn reports to the executive assistant to the secretary. The reporting relationship of the Deer position is an indication of its greater responsibility.

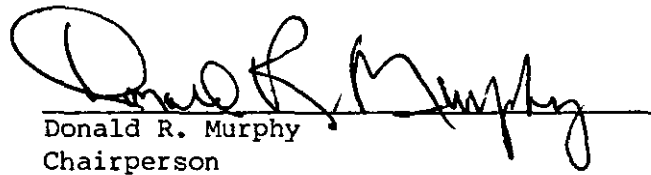
In light of the differences in these two positions as set forth on this record, a reclassification of the appellant's position to the same level as Mr. Deer's position would not be warranted.

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ORDER

The action of the respondent denying the request for reclassification is affirmed and this appeal is dismissed.

Dated: Dec. 16, 1981. STATE PERSONNEL COMMISSION


Donald R. Murphy
Chairperson

AJT:jmg

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