

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 GARY WENTZ, *
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 Appellant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
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 Respondent. *
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 Case No. 84-0068-PC *
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DECISION
AND
ORDER

A proposed decision and order was issued in this matter on December 4, 1984. The parties were initially granted until December 24, 1984 in which to file written objections or to request oral argument, although the date was subsequently changed to December 26 due to state holidays. On December 27, 1984, respondent requested and received an extension until January 4, 1985, in which to file any objections. By letter dated January 11, 1985, and received by the Commission on January 16, 1985, the respondent requested oral argument before the Commission. The respondent failed to identify any reasons for failing to meet the January 4, 1985, filing deadline. Appellant did not waive objection to the late filing of respondent's request.

Based upon the above facts, the Commission declines to consider the respondent's untimely request for oral argument.

The Commission adopts the attached proposed decision and order in its entirety.

Dated: Jan 17, 1985

STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner


DENNIS P. MCGILLIGAN, Commissioner

KMS:ers
E004/2

Parties

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Howard Fuller
Secretary, DER
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Madison, WI 53707

reclassification request. On May 8, 1984, appellant filed a timely appeal of such denial with the Commission. Subsequently, respondent reclassified appellant's position to Administrative Officer I - Confidential/Supervisor (AOI-Conf/Sup) effective September 16, 1984. This decision by respondent was based upon appellant's total responsibility (responsibility for development, implementation, maintenance, monitoring, and reporting) for the department-wide Performance Evaluation, Planning and Employee Development (PEPED) program and upon respondent's contention that appellant did not assume such responsibility until March 16, 1984.

3. The duties and responsibilities of appellant's position are accurately described in the position description signed by appellant on March 20, 1984, a copy of which is attached hereto and incorporated by reference as if fully set forth as a part of this finding. The position description submitted by appellant in October of 1983 as part of his original reclassification request was identical to the attached position description except that it did not specifically describe the duties and responsibilities of appellant's position relating to the PEPED program. (See section E of attached position description.)

4. The definition section of the position standard for the AOI-Conf/Sup classification specifications provides:

This is responsible and difficult administrative work in a major state agency. Employees in this class are responsible for directing important phases of the department's program and/or for supervising staff services in a variety of management areas. Work may involve assisting in the formulation of the agency's policies, the preparation of the budget, responsibility for fiscal management, physical plant, operating procedures, personnel and other management functions. Employees supervise a staff of technical and/or professional assistants and have a wide latitude for planning and decision making guided by laws, rules and departmental policy. Direction received is of a broad and general nature and

the work is reviewed by administrative superiors through reports and conferences.

All positions allocated to this class must meet the definitions of "Confidential" and "Supervisor" as contained in §111.81, Stats.

5. The definition section of the position standard for the Training Officer 3- Confidential classification specifications provides:

☞ This is responsible professional supervisory and advanced technical training work at a level normally found only within a very large agency or within a central personnel agency. This level carries responsibility for the development, coordination and limited administration of training programs of several large units, divisions or departments involving stipend and tuition refund programs, management development, supervisory training, technical skills training, engineering or other professional area training, student or intern training, and continuing education training. Employees in this class exercise considerable independent judgment in making decisions regarding the nature and content of agency programs. Contacts are with top management and decisions have an important effect on management development programs and the training objectives of an agency. Incumbents also assist top management with the determination of organizational training needs and determine and propose the best means to satisfy these needs and arrange for programs and facilities in accordance with these determinations. They evaluate the effectiveness of training and keep top management informed of the progress and status of these activities. Work is evaluated through a review of reports and in conference.

Positions allocated to this class must meet the definitions of "Confidential" and "Supervisor" in §111.81, Stats.

6. The major changes in appellant's position which appellant offered to justify reclassification to A01-Conf/Sup were: a. responsibility for overseeing the DOT Employee Assistance Program; b. increased provision of training consultation services to DOT (e.g., Quality Circles management program); c. expanded use of and sophistication of the audio-visual/multi-media production unit; d. maintenance of the DOT Employee Handbook; e. development of and administration of a departmental tuition refund policy; g. coordination of DOT's PEPED program.

7. The language of the Training Officer 3 - Confidential classification specifications clearly encompass the provision of training consultations services (b. above), the maintenance of an employe handbook (c. above), and development and administration of a departmental tuition refund policy (e. above). Appellant's supervision of the Employe Assistance Program did not commence until October of 1983 and does not involve providing program and/or policy direction for the program. Appellant's position performs a technical role in relation to the audio-visual/multi-media production unit, it does not set public information policy or participate in public information planning, and this responsibility does not therefore satisfy the requirement of the A01-Conf/Sup classification specifications.

8. Some time in 1981, a team of DOT employes was formed to review DOT's performance evaluation program and to propose modifications to this program. Appellant was a member of this four-person team and had primary responsibility for implementing a two-division pilot of the PEPED program designed by the team. This pilot program was completed in the Spring of 1983. In a June 9, 1983, meeting of appellant, Mr. Roslak, and James Gosling, Deputy Secretary of DOT, Mr. Gosling directed that the PEPED program be implemented on a department-wide basis and that appellant was to have responsibility for coordinating this PEPED program. DOT Secretary Lowell Jackson confirmed this in a written directive dated September 16, 1983.

9. Appellant's PEPED duties subsequent to the June 9, 1983, directive involved the direction of important phases of DOT's program; assisting in the formulation of DOT's policy; and operating procedures; and a wide latitude for planning and decision-making guided by laws, rules, and DOT policy and are more accurately described by the A01-Conf/Sup classification

specifications than the Training Officer 3 - Supervisor classification specifications.

10. A position comparable to appellant's is that of Judith Sikora, Employe Development Manager, for the Department of Industry, Labor and Human Relations (DILHR). Ms. Sikora's position was reclassified to A01-Conf/Sup primarily on the basis of her coordination of DILHR's PEPED program.

11. The only change in the duties and responsibilities of appellant's position upon which a reclassification to A01-Conf/Sup could be based was appellant's responsibility for coordinating the department-wide PEPED program. Appellant had not performed such duties for at least six months until December 9, 1983, i.e. six months after the June 9, 1983, meeting with Deputy Secretary Gosling.

12. The reclassification of appellant's position to A01-Conf/Sup should have been effective December 12, 1983.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to §230.44(1)(a), Stats.

2. Appellant has the burden to show that the effective date of appellant's reclassification to A01-Conf/Sup established by the respondent was not correct.

3. Appellant has sustained this burden.

4. The effective date of appellant's reclassification to A01-Conf/Sup should be December 12, 1983.

OPINION

The sole question in this appeal is the appropriate effective date of the reclassification of appellant's position to A01-Conf/Sup. Respondent

acknowledges that the duties and responsibilities of appellant's position as set forth in Finding of Fact 3 are better described by the A01-Conf/Sup classification specifications. The change in the duties and responsibilities of appellant's position which respondent relied upon in reaching this reclassification decision was appellant's total responsibility for coordinating the department-wide PEPED program. As discussed in Finding of Fact 6, none of the other duties and responsibilities offered by appellant in support of his reclassification request would support a reclassification to A01-Conf/Sup. The question then becomes one of ascertaining the date upon which appellant was given the total responsibility for coordinating the department-wide PEPED program. The Commission has found that Deputy Secretary Gosling gave appellant total responsibility for coordinating the department-wide PEPED in a meeting held on June 9, 1983. Respondent contends that the date on which Secretary Jackson confirmed that appellant had been given such responsibility should be controlling. However, it would be unreasonable to require that the Secretary confirm in writing every duty and responsibility of every employee of the agency in order for the duty or responsibility to be considered part of the employee's position description. The question is one of when appellant was given total responsibility for and began performing the coordination of the department-wide PEPED program, not when Secretary Jackson confirmed it. The record clearly indicates that the responsibility was given to appellant by Deputy Secretary Gosling on June 9, 1983.

Section ER-Pers 3.015(3), Wis. Adm. Code, requires that:

Incumbents of filled position which will be reclassified ... shall ... have performed the permanently assigned duties and responsibilities for a minimum of six months.

Appellant had not had total responsibility for coordinating the department-wide PEPED program for a minimum of six months until December 9, 1983, and the effective date of appellant's reclassification to A01-Conf/Sup should have been the December 12, 1983, the first day of the pay period following December 9, 1983.

Respondent's establishment of September 16, 1984, as the effective date of appellant's reclassification to A01-Conf/Sup was primarily based on the fact that the description of appellant's total responsibility for coordinating the department-wide PEPED program was not included in appellant's October, 1983, position description and was not discussed in the on-site audit conducted by respondent's classification specialist, and did not appear on one of appellant's position descriptions until March, 1984. However, the appropriate question is when appellant was given the responsibility and began performing it, not when respondent knew about it.

ORDER

The decision of the respondent establishing the effective date of the reclassification is rejected and this matter is remanded for action in accordance with this decision.

Dated: _____, 1984

STATE PERSONNEL COMMISSION

DONALD R. MURPHY, Chairperson

LAURIE R. McCALLUM, Commissioner

LRM:ers
EFORM1/2

DENNIS P. MCGILLIGAN, Commissioner

Parties

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Howard Fuller
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Madison, WI 53707

POSITION DESCRIPTION

DER-PERS-10 (Rev. 1-78)
 State of Wisconsin
 Department of Employment Relations
 DIVISION OF PERSONNEL

RECEIVED

1. Position No. 028751	2. Cert/Reclass Request No.	3. Agency No. 395
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SEP 13 1984

4. NAME OF EMPLOYEE Gary G. Wentz	5. DEPARTMENT, UNIT, WORK ADDRESS Transportation Human Resources Development Section Bureau of Personnel Management 4802 Sheboygan Avenue Madison, WI
6. CLASSIFICATION TITLE OF POSITION Training Officer 3-Supervisor	7. CLASS TITLE OPTION (To be Filled Out By Personnel Office)
9. AGENCY WORKING TITLE OF POSITION Chief, Human Resources Development	8. NAME AND CLASS OF FORMER INCUMBENT Leland G. Verheyen Civil Engineer 6-Transportation-Supv.
11. NAME AND CLASS OF FIRST-LINE SUPERVISOR John Roslak Personnel Administrative Officer 4	10. NAME AND CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES None
12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW? January 1983	
13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> IF YES, COMPLETE AND ATTACH A SUPERVISORY POSITION ANALYSIS FORM (DER-PERS-84)	

14. POSITION SUMMARY - PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION

Plan, develop, implement and evaluate the Department of Transportation general training and development program. Oversee the operation of the Department of Transportation Training Center, the utilization, distribution and maintenance of Department of Transportation Audio-Visual equipment and the production of audio and T.V. tapes for training/employee development
 (Continued)

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION (Please see sample format and instructions on back of last page.)

-GOALS. Describe the major achievements, outputs, or results List them in descending order of importance
 -WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
 -TIME %: Include for goals and major worker activities.

Respondent's Exhibit # 6
 (Continue on attached sheets)

TIME %	GOALS AND WORKER ACTIVITIES
10%	A. Provide expert/professional services in the development of Department of Transportation Training and Employee Development policy and procedures.
	A1. Formulate, propose and develop programs, training format and procedures to meet statutory, and other regulatory requirements in areas such as, but not limited to, supervisory training, development and maintenance of training records, tuition refund, etc. and Department of Transportation program needs. Oversee the operation of the department's Employee Assistance Program.
	A2. Work closely with Department of Transportation program administrators to coordinate Department of Transportation general training policies, procedures and programs with those that are unique to specific operating units.

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION (See Instructions on Back of last page)

a. The supervision, direction, and review given to the work of this position is [] close [] limited [] general.
 b. The statements and time estimates above and on attachments accurately describe the work assigned to the position. (Please initial and date attachments)

Signature of first-line supervisor: [Signature] Date: 3/20/84

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position. (Please initial and date attachments.)

Signature of employee: [Signature] Date: 3/20/84

18. Signature of Personnel Manager _____ Date _____

15. Goals and Worker Activities (Continued) .

- 10% B. Analyze and/or assist in analyzing employee training/development needs in close cooperation and coordination with department staff, ranging from top executive/administrative levels to the basic beginning levels.
- B1. Conduct research and serve as a member of management teams to evaluate program/staffing/process effectiveness and to help determine if and how effectiveness and efficiency of a program, staff, or process could be improved through training.
 - B2. Develop and work closely with employee groups such as the "Brown Bag Committee" to foster employee input and participation in training and developmental activities that enhance and enrich job skills, career development and advancement, personal esteem and personal well being.
- 5% C. Participate in the preparation of the Training and Employee Development portions of Department of Transportation budget.
- C1. Provide training data and costs to the budget office and to operating units for both past and proposed training/employee development courses and programs.
 - C2. Review requests for proposed audio/visual/training aids equipment and expenditures to determine if the equipment needs can be met through our present Department of Transportation inventory. New equipment when necessary should whenever possible be compatible with other equipment in our inventory.
 - C3. Conduct research, develop and update plans and proposals for optimum fulfillment of training needs within the limits of available resources both during and after development of the Department of Transportation budget.
- 20% D. Formulate, develop, implement and conduct employee development programs and aids to meet specific training/employee development needs.
- D1. Determine course objectives and course content based on training need to be met, resources available and audience to be served.
 - D2. Coordinate the department's use of training programs offered by the State Department of Employment Relation's Development Section.
 - D3. Coordinate training programs involving outside consultants as resource persons.
 - D4. Act as training consultant in the planning, preparation, presentation and evaluation of specialized job training in operating units of the department.
 - D5. Prepare reports, articles and verbal presentations on training activities and represent the department at various meetings, seminars and with training groups.
 - D6. Maintain a knowledge of and a professional ability to plan and implement training programs in areas such as employee orientation, job instruction, apprenticeships, supervisory development, management philosophy and methodology, self-development, self motivation and esteem, specific skill training, etc

- D7. Institute, promote and continually supplement and update a program of self study and self development materials, facilities and equipment for employee use.
 - D8. Maintain contact with other state agencies, private industry and business, training organizations and associations, and with adult education institutions and organizations to keep current on new developments, courses, materials, equipment and concepts relating to employee training and development.
 - D9. Develop, compile and/or purchase training manuals and other training aids. Obtain equipment, training films and tapes and other visual aids on rental basis to meet unusual or non-continuing needs.
- 15% E. Coordination of the Department's Performance Evaluation, Planning and Employee Development Program (PEPED).
- E1. Review program and recommend changes to the Secretary in the department's performance evaluation and development policy and procedures to meet departmental and state requirements; and convey such approved changes to departmental Administrators.
 - E2. Develop training for department supervisors and managers in administering the performance evaluation and department program to meet department and state policy.
 - E3. Provide technical assistance to department supervisors and managers in administering the performance evaluation and department program to meet department and state policy.
- 10% F. Select, train and supervise the staff of the Human Resources Development Section of the Bureau of Personnel Management.
- F1. Direct a staff engaged in planning, developing and evaluating a broad range of training courses and training/employee development aids, employee assistance services and multimedia production services; and in providing and maintaining a broad range of audio visual equipment to DOT operating units.
 - F2. Keep staff informed of available resources, motivate effective performance of staff and provide the professional direction, support and additional training and communication needed for effective/efficient performance.
- 5% G. Oversee the development and updating of the Department of Transportation Employee Handbook, prepare and issue bulletins and other publications that assist in the training and development of Department of Transportation employees.
- G1. Keep abreast of organizational and personnel policy/contractual/fringe benefit changes that affect information included in the Department of Transportation handbook and update information as necessary.
 - G2. Maintain skill in writing and in utilizing department resources for development and production of bulletins, brochures and other materials.

- 5% H. Direct the operation of the DOT training and audio/visual equipment loan center, auxiliary training room and the TV/audio-visual production studio and maintenance shop.
- H1. Keep abreast of the use and maintenance cost of present equipment and of new equipment coming on the market; submit budgetary requests and justification to maintain an optimum level of service.
- H2. Oversee the scheduling of the training center, training room, production services and equipment loan, establishing priorities and resolving problems or conflicts.
- 10% I. Oversee the operation of the DOT Employee Assistance Program.
- I1. Work closely with the DOT Employee Assistance Officer to provide for effective and efficient operation of the EAP including flexibility of training responsibilities to permit handling EAP emergencies.
- 10% J. Coordinate the implementation of Quality/Performance Circles in the Department and facilitate their operation.
- J1. Consult with Administrator's and Directors regarding the organizational requirement for implementation, and to develop Circle policies and procedures.
- J2. Present orientation sessions to managers, supervisors and employees prior to Circle implementation.
- J3. Conduct training for Circle members, Circle coordinators, and Circle facilitators.
- J4. Monitor Circle activities and provide follow-up consultation and assistance to ensure effective operation.
- J5. Work closely with program administrator to evaluate Circle recommendation implemented in terms of program and service improvements, reduced costs, etc.