

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 ALLAN COHN,
 Appellant,
 v.
 Secretary, DEPARTMENT OF
 HEALTH AND SOCIAL SERVICES,
 and Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS,
 Respondents.
 Case No. 88-0028-PC
 * * * * *

INTERIM
 DECISION
 AND
 ORDER

This matter is before the Commission on respondent DHSS's motion to dismiss for lack of subject matter jurisdiction filed May 17, 1988.

This appeal was filed March 9, 1988, and included the following:

I have had a totally biased and untruthful PPD [Performance Planning and Development] evaluation from Ms. Mc Guire and have not received a reclass to Officer 2 because of this.

* * *

I would like this situation investigated and my PPD overturned.

Respondent's motion is based on the following:

The Commission has previously ruled that it has no authority to hear an appeal of a performance evaluation since a performance evaluation is not an action of the Administrator and is not part of the hiring process. See Welniak v. UW, 81-126-PC (June 3, 1981) and also Thorn v. DHSS, 81-459-PC (June 9, 1983).

The distinction between this case and Welniak and Thorn is that neither of those cases involved a performance evaluation which was used to deny reclassification. In this case, Officer 1 to Officer 2 appears to be a progression series, and appellant alleges in his appeal that the PPD was used to deny reclassification to Officer 2. Appellant has the right to

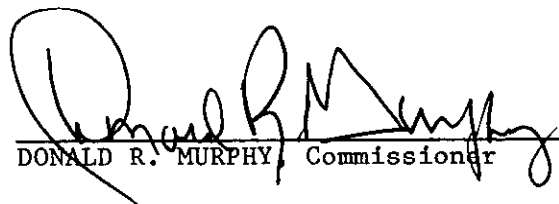
appeal, pursuant to §230.44(1)(b), Stats., the denial of a reclassification to Officer 2, whether the denial was based on a determination that "the incumbent's job performance is not satisfactory," §ER-Pers 3.015(2)(a), Wis. Adm. Code, or on a determination that the "incumbent has not satisfactorily attained specified training, education or experience in a position identified in a classification series where the class levels are differentiated on this basis," §ER-Pers 3015(2)(b), Wis. Adm. Code. To the extent that the PPD figured in the denial of reclassification, it is reviewable as part of that denial. See also, Pittz v. DHSS Wis. Pers. Commn. 79-116-PC (1/13/81); Michalski v. DOT, Wis. Pers. Commn. 82-228-PC (6/9.83).

ORDER

Respondent's motion to dismiss filed May 17, 1988, is denied. Pursuant to §230.04(1m), Stats., the Secretary of the Department of Employment Relations (DER) is added to this appeal as a party respondent.

Dated: June 29, 1988 STATE PERSONNEL COMMISSION

AJT:jmf
JMFO9/2


DONALD R. MURPHY, Commissioner


LAURIE R. McCALLUM, Commissioner