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 RICHARD M. JOHNSON  
                   Appellant,  
 v.  
 Secretary, DEPARTMENT OF  
 EMPLOYMENT RELATIONS,  
                   Respondent.  
 Case No. 88-0139-PC  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

NATURE OF CASE

This is an appeal of respondent's decision to deny appellant's reclassification request. The issue agreed to by the parties which governed the hearing held on the merits of this case was:

Whether respondent's decision denying appellant's request for reclassification of his position from Educational Services Assistant (ESA) 1 in PR1-12 to Educational Services Assistant (ESA) 2 in PR1-13 was correct.

Subissue: Whether appellant's position is more appropriately classified as an ESA 1 or an ESA 2.

FINDINGS OF FACT

1) At all times relevant to this matter, the appellant has been employed by the University of Wisconsin-Extension in a classified position with the working title of Staff Benefits Coordinator. The current title of the appellant's organizational unit is Payroll and Staff Benefits.

2) Appellant was hired by the UW-Extension as an Educational Services Assistant 1 on April 20, 1980. The position description (PD) was signed by

the appellant on April 30, 1980, and accurately reflects the duties and responsibilities of appellant's position.

3) In early 1988, the UW-Extension initiated action to reclassify appellant's position. This action was based on the position description signed by appellant on March 29, 1988. This position description accurately reflects the overall duties and responsibilities of appellant's position, but does not contain detail on what is involved or how the appellant accomplished the various goals and worker activities listed on the position description.

4) Appellant's supervisor, Mr. Maynard Michelson, retired on July 3, 1987. A portion of Mr. Michelson's responsibilities was to serve as federal retirement officer. This function, involving counseling, training and processing of retirement benefits for employees with federal appointments, was transferred to the appellant.

5) The appellant's supervisor is currently Mr. William Hanold.

6) The position summaries for the 1980 and 1988 position descriptions are as follows:

1980

Primary responsibility will be counseling staff on benefits available. Provide information on retirement plans, insurance coverages and tax deferred programs. Direct two secretaries and two students in processing applications, claims and various insurance forms and develop form letters to meet insurance requirements. Conduct group training programs. Provide risk management information to Extension staff through written and oral instructions and assist departments in obtaining adequate coverage.

1988

Primary responsibility will be counseling staff on benefits, retirement plans, insurance coverages, Federal benefits, and tax shelter programs. Develop and maintain an employee assistance program for staff. Continue to lead and train secretaries and staff benefits assistant. Conduct group training sessions.

The significant changes between these two summaries is that the 1988 summary reflects the addition of the federal benefits programs to the benefit program responsibilities of the appellant, and formally lists appellant's responsibilities for the employe assistance program. The responsibility for employe assistance in the 1980 position description is identified only as a worker activity. In addition, the risk management responsibilities identified in the 1980 position summary have been eliminated from the 1988 position description, although appellant still functions as Worker's Compensation Coordinator for the UW-Extension.

7) The goals and worker activities reflected on the 1980 and 1988 position descriptions are as follows:

1980

Time %	Goals and Worker Activities
45%	I. Counseling <ul style="list-style-type: none"><li>A. Counsel faculty, academic, classified, and part time staff in Extension and Center System on the Staff Benefits available.</li><li>B. Provide written and oral retirement counseling involving ramifications of tax deferred programs, insurance decisions, and options of State and Federal Retirement programs.</li><li>C. Coordinate Employee Assistance Program for Extension classified and Center System staff and provide referral counseling assistance.</li></ul>
20%	II. Administration of Insurance <ul style="list-style-type: none"><li>A. Direct secretaries and students in processing applications, changes and claims on various insurance retirement plans.</li><li>B. Maintain current knowledge of insurance coverages and procedures.</li><li>C. Draft letters and printed brochures pertaining to changes in benefits.</li></ul>
20%	III. Office Administration. <ul style="list-style-type: none"><li>A. Maintain working knowledge of all office procedures.</li><li>B. Advise Extension and Center System business managers of procedures that must be followed by departments to comply with insurance requirements.</li></ul>
5%	IV. Extension Risk Management Program. <ul style="list-style-type: none"><li>A. Maintain current knowledge of Risk Management Information.</li></ul>

- B. Provide Risk Management information through written and oral instructions.
- C. Assist departments in obtaining adequate coverage.

10%

V. Group Training.

- A. Conduct group training programs on changing insurance and retirement benefits through speeches and telephone network systems.
- B. Conduct group training or (SIC) Employee Assistance for Extension departmental supervisors and Center System business managers.

1988

TIME % GOALS AND WORKER ACTIVITIES

45%

A. Counseling

- A1. Counsel faculty, academic staff, classified staff, and LTE's in UW Extension and UW Centers on staff benefits.
- A2. Provide written and oral retirement counseling involving ramifications of tax deferred programs, insurance decisions and options of the state retirement.
- A3. Counsel UW Extension Federal staff on Federal insurance and retirement.
- A4. Prepare all Federal retirement estimates, calculate benefits and process all necessary forms for Federal retirees.
- A5. Notify terminating staff of their benefits and conversion options upon termination.
- A6. Advise beneficiaries of deceased staff on death claim procedures.

20%

B. Administration of Insurance.

- B1. Direct and lead secretaries in processing applications, changes, and claims on various insurance and retirement plans.
- B2. Maintain current knowledge of insurance coverages and procedures, tax shelter plans, and retirement options.
- B3. Inform staff of changes in benefits via written correspondence, brochures, etc.

20% C. Office Administration.

C1. Maintain knowledge of all office procedures.

C2. Advise UW Extension and UW Centers business managers of procedures that must be followed to comply with insurance requirements.

5% D. Group Counseling.

D1. Conduct training and counsel staff via ETN Statewide Network.

D2. Prepare materials and provide training and counseling at UW Centers and UW Extension district meetings.

10% E. Employee Assistance Program.

E1. Develop master plan for an employee assistance program for UW Centers and UW Extension.

E2. Initiate EAP training for all supervisors.

E3. Develop and produce EAP materials and brochures.

E4. Counsel employees and direct them to the proper person or agency for assistance.

8) The major changes reflected in the 1988 PD are:

a) Worker Activity A.3. and A.4 (Federal retirement)

These two activities identify the responsibility for federal retirement counseling and processing. Appellant spends approximately 30% of his time on worker activity A.4. The additional time expenditure in this area is the result of the need to complete 39 forms required only for federal employees, and the changes related to the Federal Employees Retirement System (FERS) which includes a federal annuity, a thrift savings plan (401K), and social security.

b) Goal E (Employee Assistance (EA) Program)

This goal coupled with goal D (Group Counseling) are an expansion of what was identified in the 1980 PD as goal V (Group

Training). The risk management functions have been eliminated from the 1988 PD and the time percentage allocated to it on the 1980 PD (5% for Goal IV) have been allocated to Goal D on the 1988 PD.

The expansion in this area has been to identify appellant as the director of employe assistance instead of the coordinator. The job previously involved working with business managers on establishing a program. There are now three coordinators identified who report to him relative to the provision of EA services. Appellant is responsible for providing training (either directly or through a contract for service) not only for the coordinators, but for the 200 supervisors and 16 Deans in the UW-Extension and Centers System. The master EA Plan was completed and coordinators were appointed approximately 3 years ago (1986). The coordinators have been trained and supervisory training has almost been completed. Much of the training is done by an outside consultant.

9) The Position Standards for the Educational Services Assistant series provide, in pertinent part, the following:

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CHARACTERISTICS OF THESE SERIES

These series are designed to fill the gaps in classification of a wide variety of professional jobs not described in existing classes. Employes may serve as professional assistants in major educational departments and schools, or to faculty classified personnel serving in administrative capacities. Their assignments may include a variety of support services where a full-time position may not be justified in a specialty. Such work may entail personnel, budgeting, space allocation, and purchasing. The jobs could be located in areas such as student unions, book stores, recreation, admissions, registration, student affairs, and academic and instructional departments.

Incumbents are expected to have the ability to operate independently with the degree of supervision received less direct as the

employee develops within the series. The intent of the series is to provide career development through levels within this series or related series. Some positions, because of department growth, may develop into more complex high level educational administrative positions while others, because of their nature, may require the employee to change positions in order to advance in grade level.

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Educational Services Assistant 1

PR1-12

Positions allocated to this class perform a variety of professional level work as a staff agent in an operating educational unit. Employees perform a wide variety of general educational administrative work. Employees in this class have progressed beyond the training stage and are responsible for developing and installing operating policies and procedures. Incumbents may also be assigned to duties in the area of merchandising, or general administration where they may be assigned buying and marketing responsibilities. Direction is received in the form of oral or written instructions, but it is the responsibility of the incumbent to determine how to carry them through to completion.

Examples of Work Performed

May supervise entry level professional and technical employees.

Develops budget justification for the unit.

Is responsible for coordinating all purchasing and purchase requisitions for the unit.

May assist in the operation of a book store or other business activity.

Selects articles to be stocked and develops merchandising techniques in assigned areas.

Assists in complex record keeping functions such as registration of students.

Acts in an advisory capacity to student organizations by providing financial and fiscal advice relative to their activities and school regulations.

At smaller institutions, may act as managers of book stores, assistant registrars, or assistant placement officers.

Develops and installs operating procedures for the unit.

Evaluates and approves allocation of budget allotments.

Conducts miscellaneous statistical, financial and accounting research.

Provides department-wide personnel functions.

Performs related work as required.

Educational Services Assistant 2

PR1-13

Positions allocated to this class are found in large complex operating units such as schools, stores, student activities, etc. Employees in this class are given a wide variety of assignments in a number of areas. Specific assignments may concentrate in one area such as book store operations, union activities, student financial assistance or counseling, etc. At this level the employees would act as assistants to the directors or higher level educational administrators. Employees usually serve as a staff assistant to faculty personnel and are responsible for interpreting laws, rules and departmental policies in carrying out their assigned function and may develop new techniques. Supervision is limited with a review of work only for the purpose of ascertaining if it follows department philosophy.

Examples of Work Performed

Acts as area specialist in book store activities.

Engages in administering phases of student union activities.

May act as assistant to registrar in large universities.

Acts as staff specialist in a combination of business management activities such as purchasing, budget preparation, personnel and space allocation.

Analyzes departmental requests for supplies, space and capital items as they relate to gifts, grants and endowments.

Performs related work as required.

10) In a letter dated November 4, 1988, respondent DER denied appellant's reclassification request. Appellant filed a timely appeal of the reclassification denial with the Commission on November 22, 1988.

11) The following positions were offered for comparison purposes in the hearing record:

a) UW-LaCrosse — Educational Services Assistant 1, Manager, Staff Benefit Programs and Employee Development and Training. This position is involved in managing the state's fringe benefit program for the campus including counseling of faculty, academic staff and faculty (30%); developing and implementing the campus employee develop/training program (30%); managing and directing administration



of the tax shelter program (20%); and serving as the campus resource person and counselor on retirement related activities and issues (20%). The position reports to the Director of the Personnel Office.

b) UW-Madison Law School - Educational Services Assistant 2 — Law School Registrar and Financial Aids Officer, and Personnel Manager. This position spends the majority of its time (60%) serving as the law school registrar with responsibility for monitoring all aspects of students records including counseling of student on their status and determining if they meet graduation requirements, obtaining necessary documents for admittance to the Bar in this or other states, and determining grade point averages and eligibility for honorary societies. In addition, the position spends 35% of its time monitoring financial aids records, determining how the available scholarship funds will be distributed and maintaining records on receipt and disbursement of funds, and providing financial aid information to students either in person or through mailing of informational materials. The position also serves as the Personnel Manager for classified employes in the school 5% of its time. The position reports to an Associate Dean.

c) UW-Madison College of Agricultural and Life Sciences — Educational Services Assistant 2 — Assistant to the Dean and Director. This position reports to and serves as the staff assistant to the Dean and Director of the College of Agricultural and Life Sciences. The majority of the position time (65%) is spent in direct support of the Dean. Activities include assistance with internal administrative activities related to college faculty (30%), the

appointment, recruitment, and coordination of related academic personnel activities (20%), and maintaining contacts with outside groups including responding to inquiries, writing of speeches, and other liaison types of activities (15%). The remaining time of the position is spent administering receipt of the colleges scholarships, trusts and gift funds (15%), administering special honorary recognition and awards programs (15%), and directing the general office operation (5%).

12) The duties and responsibilities of appellant's position are better described by the Position Standard for the ESA 1 classification, and are more closely comparable to those of the ESA 1 position offered for comparison purposes in the hearing record.

#### CONCLUSIONS OF LAW

1) This matter is appropriately before the Commission pursuant to §230.44(1)(b), Stats.

2) The appellant has the burden of proof of showing by the preponderance of evidence that respondent's decision denying his request for the reclassification of his position was incorrect.

3) Appellant has not met this burden of proof.

4) Respondent's decision denying appellant's request for reclassification from the ESA 1 to ESA 2 level was not incorrect, and appellant's position is more appropriately classified at the ESA 1 level.

#### DISCUSSION

In addressing cases of this nature, the Commission has consistently held that they will give primary consideration to the clear language of the classification specification. Zhe et al. v. DHSS and DP, 80-285-PC (11/19/81); aff'd by Dane County Circuit Court, Zhe et al. v. PC, 81-CV-6492

(11/2/81). If the specification (or position standard) does not provide a clear basis to distinguish positions, then the Commission will look at comparable positions.

In the instant case, the applicable portions of the position standard are:

1) Characteristics of the Series

"... Their assignments may include a variety of support services where a full-time position may not be justified in a specialty. Such work may entail personnel, budgeting, space allocation, and purchasing....

\* \* \* \*

... Some positions, because of department growth, may develop into more complex high level educational administrative positions while others, because of their nature, may require the employe to change positions in order to advance in grade level."

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In general, this series is designed to cover positions which have assignments in a variety of support services. In other words, variety as used here applies not only to the work within one program (or support service) area, but also to the number of different program (or support service) areas the position is involved in. In addition, the series is not designed as an automatic progression, but rather is used at higher levels to recognize those positions that become more involved in "educational administrative" activities.

2) Class Definitions and Typical Allocations

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Educational Services Assistant 1

"Positions allocated to this class perform a variety of professional level work as a staff agent in an operating educational unit. Employees perform a wide variety of general educational administrative work. Employees in this class have progressed beyond the training stage and are responsible for developing and installing operating policies and procedures.... Direction is received in the form of oral or written

instructions, but it is the responsibility of the incumbent to determine how to carry them through to completion."

\* \* \* \* \*

Educational Services Assistant 2

"Positions allocated to this class are found in large complex operating units such as schools, stores, student activities, etc. Employees in this class are given a wide variety of assignments in a number of areas.... At this level the employees would act as assistants to the directors or higher level educational administrators. Employees usually serve as a staff assistant to faculty personnel and are responsible for interpreting laws, rules and departmental policies in carrying out their assigned function and may develop new techniques. Supervision is limited with a review of work only for the purpose of ascertaining if it follows department philosophy."

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The major differences between these two classifications (as defined in the position standard) is that at the ESA 2 level positions perform a "wide variety of assignments in a number of areas; generally report to faculty or higher level educational administrators in a larger more "complex operating unit such as schools...;" and the level of supervision provided is more in the area of general "philosophy" as opposed to a general review in terms of whether "oral or written instructions" were properly implemented and administered.

Appellant's disagreement with the denial of his reclassification request centered around that portion of respondent's letter denying his request (appellant's Exhibit 4) which states:

"... Essentially, the duties and responsibilities of the position have not changed since the last classification transaction in 1980..."

In presenting his case, appellant points to a number of items. First, with the retirement of his previous supervisor (Mr. Michelson), he was given additional responsibility for dealing with employees who were covered under the federal retirement system. This increased the number of retirement programs and forms he had to use and become familiar with.

Second, his Position Description (PD) was very brief and didn't have all the detail that the comparison PD's had. He felt this was appropriate, and that during the audit these items could be discussed and further "fleshed out." On the record, respondent did indicate that they had information on the procedures and what was involved in the various activities outlined in appellant's PD. Appellant also stated on the record that his work had become more complex because he was; 1) now responsible for 29 health plans with multiple rates set by county instead of the 3 health plans he was involved with in 1980, and 2) now involved with 3 different tax deferred programs with 123 investment vehicles instead of the one tax deferred program with 40 investment vehicles he was responsible for in 1980.

In addition, appellant's 1980 PD (appellant's Exhibit #1) identifies responsibility for directing two secretaries. Appellant's 1988 PD and accompanying organization chart (Respondent's Exhibit #3) identifies a Benefits Assistant (Educational Services Intern) in addition to the two secretarial positions. The Commission notes that this additional staff was added after the increases in workload identified above had taken place and reasonably infers there is some relationship.

Third, appellant identified his expanded role in employe assistance including overall program expansion and his designation as Director as an expansion of responsibility warranting reclassification.

The respondent argues that, while there has been an expansion of the staff benefit programs that appellant is responsible for and an expansion of his role in employe assistance, there has been no change in the number of different (or variety of) areas the appellant is responsible for. In arguing that the change is within an existing program, and not the kind of program for which the appellant is responsible, respondent considered

factors related to the nature and complexity of work, knowledge required, level of accountability, discretion in performing the work, and the scope and impact of the responsibilities.

Respondent indicated, both on the record and in the denial letter, that the federal retirement work added complexity to the work and did require some additional knowledge. However, the overall scope and nature of the work did not change in the sense that appellant was still involved in the employe benefits and employe assistance programs. This distinction was significant in their determination that, based on the position standard, the appellant's position had not changed significantly enough to warrant identification at the ESA 2 level.

The commission in this case notes that there have been changes in appellant's duties and responsibilities relating to federal retirement and employe assistance. However, these changes have not involved the addition of new program areas, but rather modify the position's current duties and responsibilities. It is also noted that appellant's 1980 PD contained a worker activity (I.B.) which identified counseling of employes regarding options of Federal Retirement programs.

As was cited earlier in this section, the difference between an ESA 1 and ESA 2 can be briefly identified as relating to the number of areas a position is responsible for and to whom it reports. Respondent argued that they arbitrarily consider a 25% change in duties and responsibilities as necessary to warrant reclassification. The Commission does not recognize any such standard but rather defers to the fact situation and at what level the classification specifications identify the majority of a position's duties and responsibilities.

The Commission concludes that the specifications themselves identify this position, both in terms of function and reporting relationship, at the ESA 1 level, and that the changes which occurred do not result in the position being better identified at the ESA 2 level. However, if we were to assume, arguendo, that the specifications weren't sufficient to properly classify this position, we would turn to the position comparisons. Both this position and the ESA 1 at UW-LaCrosse report to an academic staff manager while the two ESA 2 positions report to an academic dean or assistant dean. The functions of the ESA 2 positions involve direct staff assistance to faculty in addition to functions in the area of student counseling and financial aids, maintaining student records, serving as personnel manager, accounting for and determining eligibility for scholarship funds or special awards, and providing other business management services to faculty, staff and students as part of the overall operation of the school.

Appellant argues that he has his secretaries do some of the work that the ESA 2's indicate they do on their PD. While this may be true of specific tasks, respondent argues that they must look at the overall responsibility of the position and not whether other subordinates or the position incumbent do the tasks. The Commission concurs with the approach of looking at the overall responsibilities of a position and then comparing them to the classification specifications. Specific tasks or words may be common between PD's of positions or the specifications for various classification levels in a series. The decision on which level a position is to be classified at is not based on being able to match a specific word, but whether the majority of the duties and responsibilities of a position have changed to the point where they are better identified at a higher

classification. In the instant case, the functions have expanded within an area increasing the workload. However, these changes have not affected its organizational role (or level) and have not involved new program areas.

The specifications and job comparisons don't identify how many or what kind of areas a position needs to be involved in to move from the ESA 1 level to the ESA 2 level. However, they do show at what level in the organization the position is located, and that the program areas involve a variety in terms of kind (budget, counseling, student records, financial aids) rather than in the types of activities within one program area. The changes in duties and responsibilities of appellant's position relate to the type of activities in program areas for which appellant was already responsible.


While the Commission recognizes that there have been additional responsibilities given to the appellant, and that the appellant puts in significant effort in completing them, the changes are not sufficient, or significant enough, to warrant classifying the position at the ESA 2 level. Therefore, based both on the classification specifications and the position comparisons, appellant's position is most appropriately classified at the ESA 1 level.

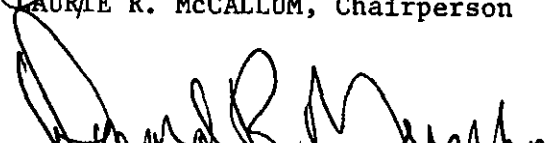



ORDER

The action of the respondent is affirmed and this appeal is dismissed.

Dated: January 10, 1990 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

  
DONALD R. MURPHY, Commissioner

  
GERALD F. HODDINOTT, Commissioner

GFH:gdt  
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