

STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*

GREG M. DOYLE,

Appellant,

v.

Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondent.

Case No. 89-0016-PC

\* \* \* \* \*

ORDER

The Commission adopts the attached proposed decision and order as its final decision and order in the above matter and denies the appellant's application for costs under §227.485, Stats., in the amount of \$15.75 representing the charge for obtaining a copy of the tape recording of the hearing. A charge for tape recordings of hearings is not among the categories of costs specified in §814.04(2), Stats., and therefore is not "allowed by law" as required by that subsection. DER v. Wis. Pers. Comm. (Anderson), Dane County Circuit Court, 87 CV 7397, 11/7/88.

Dated: June 15, 1990

STATE PERSONNEL COMMISSION

Laurie R. McCallum  
LAURIE R. McCALLUM, Chairperson

KMS:gdt/2

Donald R. Murphy  
DONALD R. MURPHY, Commissioner

Gerald F. Hoddinott  
GERALD F. HODDINOTT, Commissioner

Parties:

Greg M. Doyle  
DPI  
P.O. Box 7841  
Madison, WI 53707

Constance P. Beck  
Secretary, DER  
P.O. Box 7855  
Madison, WI 53707

\* \* \* \* \*

GREG M. DOYLE, \*

Appellant, \*

v. \*

Secretary, DEPARTMENT OF EMPLOYMENT RELATIONS, \*

Respondent. \*

Case No. 89-0016-PC \*

\* \* \* \* \*

PROPOSED  
DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), Stats., of the denial of a reclassification request. The parties stipulated to the following issue for hearing:

Whether respondent's decision denying appellant's request for the reclassification of his position from Administrative Assistant 5 - Supervisor (AA5 - Sup) (PR 1-15) to Administrative Officer 1 - Sup (A0 1-Sup) (PR 1-16) was correct.

Subissue: Is appellant's position most appropriately classified at the AA 5 - Sup, AO 1 or A0 2 - Sup (PR 1-17) level?

FINDINGS OF FACT

1. Appellant has at all material times been employed in the classified civil service by the Department of Public Instruction (DPI) in a position serving as the Chief, Media Support Section, Bureau for Education Information Services, most recently classified as AA 5 - Sup.

2. The basic duties and responsibilities of appellant's position are accurately set forth in the position description signed by appellant on January 13, 1988 (Respondent's Exhibit 3), as follows:

Position Summary - The primary function of this section chief is to provide administration, supervision, leadership to section staff, and

consultation for DPI public information, publications, and communications activities to K-12 schools, state schools for the visually handicapped and deaf, and department personnel and programs.

Time %

- 55% A. Administration of Media Support Section and Publication Sales programs and budgets as they affect the department, the Bureau for Education Information Services, local education agencies, and national and international markets.
- A 1. Implement communications, publications, and public information plans, programs, and budgets that respond to department policies and the superintendent's directives.
  - A 2. Review and evaluate existing and new publications and other educational materials to reinforce and implement department programs, goals, and objectives.
  - A 3. Administer the publications preparation process for the department.
  - A 4. Serve as a member of the departmentwide Publications Advisory Committee and provide follow-up monitoring of publications.
  - A 5. Administer Publication Sales activities, including recommending the selection, production, and promotion (state national, and international) of department publications and other educational materials in sufficient numbers to meet the demand and at sufficient cost to assure the account's continued solvency.
  - A 6. Serve as the department's national marketing representative at education and publishing conventions.
  - A 7. Review, evaluate, and recommend Publication Sales program revenue support of section, bureau, and department positions, facilities, equipment, and materials.
  - A 8. Administer budget, shipping, and inventory systems for Publication Sales program revenues.
  - A 9. Enlist other public and private organizations in cooperative funding and program efforts in information and education.
  - A10. Represent the department on councils, interagency work teams, and at conferences and other professional meetings.
- 15% B. Provision of support for the department's state and national communications, publications, and public information activities.

- B 1. Provide for the implementation of communications, publications, and public information activities as part of the department's overall educational information strategic plan.
- B 2. Prepare and recommend department public affairs activities, based on department goals and objectives.
- B 3. Advise the bureau director on public affairs priorities, activities, and programs.
- B 4. Develop and recommend to the bureau director related policies, procedures, goals, and objectives for communications, publications, and public information programs, fulfilling school district and internal needs and legislative mandates.
- B 5. Identify and monitor external events and department program implementation for developments relevant to education issues and public affairs strategies.

10% C. Provision of consultative education communications services to department personnel, education institutions, and professional organizations.

- C 1. Initiate, develop, and implement communications activities and publications materials. Advise department personnel on policies and procedures.
- C 2. Incorporate communications and publications elements into plans, goals, and objectives delineated by department programs.
- C 3. Recommend public affairs activities relative to education, advising local education agency personnel and local, regional, and state education-related organizations.
- C 4. Direct the production and distribution of the statewide education and education-related newsletters, Education Forward and Channel DLS.
- C 5. Maintain professional relationships with local, state, regional, and national education organizations.

20% D. Supervision of Media Support Section staff in planning and carrying out their responsibilities.

- D 1. Evaluate employees' performance, setting standards and identifying areas of needed employee development.
- D 2. Monitor progress and performance to assure achievement of objectives and goals.
- D 3. Plan and conduct staff meetings to inform, advise, review, and evaluate section policies and procedures.
- D 4. Interview and recommend selection of new employees in the Media Support Section.

- D5. Effectively recommend disciplinary actions and provide counseling to achieve improvement of performance.
- D6. Train subordinates in job tasks and department policies and procedures. Provide employees with ongoing training programs to develop their skills.
- D7. Implement and support affirmative action policies according to department plans.

3. Appellant reports to the Bureau Director (Jane Lepeska, incumbent), an AO 3 - Sup, and operates under general supervision.

4. Appellant supervises the following subordinate employees:

Permanent:

2	Public Information Officers	3
1	Publications Editor	3
1	Publications Editor	2
1	Printing Technician	1
1	Photographic Technician	2
2	Graphic Artist	2
1	Program Assistant	3

Project:

1.5	Publications Editor	2
1	Shipping & Mailing Clerk	1

5. Section 115.28, Stats., which sets forth the general duties of the state superintendent of public instruction, includes the following:

(4) PUBLIC INFORMATION. By reports, bulletins, circulars, correspondence and public addresses, give the public information upon the different methods of school organization and management and the subject of education generally.

The (DPI) Public Information and Education Program is the only such program in state government that is statutorily mandated.

6. Appellant is responsible for a complex major department-wide program that has substantial statewide and beyond public contacts.

7. There has been a logical and gradual change in the duties and responsibilities of appellant's position since he was appointed in 1985, and continuing to the date of the current reclassification request, as the DPI Public

Information and Education Program has grown in size and scope, resulting in increased staff, program revenue, budget, and functions.

8. In July, 1987, respondent decided to reclassify appellant's position from Public Information Officer 4 - Sup to AA 5 - Sup with an effective date of April 12, 1987. This decision was not appealed. However, a meeting was held in December 1987 between appellant, Eileen M. Kellor of DER who was responsible for the decision, and Lee Hill, DPI Personnel Specialist who originally had recommended an AO 1 - Sup classification for the position. Ms. Kellor summarized that meeting in a memo to Mr. Hill dated December 8, 1987 (Appellant's Exhibit 11), which included the following:

One of the key issues that I brought up yesterday was the fact that many of the activities identified by Mr. Doyle as "new" had not been performed the requisite six months. In addition, many of the "new" activities had not been assigned to the position long enough that an adequate assessment of their overall complexity, scope, difficulty, etc., could be made. The effective date for this request was April 12, 1987, therefore, any duties used in support of this request had to have been assigned to and performed by the position no later than October, 1986.

As I explained to Mr. Doyle, it is important that a position's duties and responsibilities change gradually and logically so that a case can be made for the reclassification of a position and regrade of the incumbent, rather than a reallocation of a position and a competitive situation with no regrade. For this reason, although I can definitely sympathize with Mr. Doyle's frustration with the time frames necessary for the gradual acquisition of higher level duties and responsibilities, I would like to reiterate that it does appear that the DPI's public information program is growing beyond what it has historically been. It appears likely that continued, gradual growth of this position's duties and responsibilities is likely.

Examples of some of the duties that had been performed less than six months and/or which had not fully developed at the time of the review are:

increased promotion of the DPI's publications, including national promotional campaigns;

the development and implementation of a budgeting and inventory system;

the involvement of the position in the review of other division's annual plans in order to identify areas which may impact on the section's activities;

anticipated addition of video production responsibilities to the position;

possibility of more permanent staff being assigned to the section;

increased involvement in budget analysis types of issues, e.g., how to support a permanent position with program revenue funds;

departmental intention of continually updating the Curriculum content guides that have been developed.

These are all activities that have not historically been associated with this position. some of them reflect changes in the focus of the DPI's public information program and some of them are expansions and evolutions of portions of the position's current duties and responsibilities.

Although I cannot identify a specific timeframe in which it would appear likely that the above items would reach a higher level, it may be possible that some combination of the above could justify moving the position to the AO 1 - Supv level at some point in the future, depending on the rate at which the programs developed and responsibilities increased.

Again, it does appear that the DPI public information program is growing and will continue to grow. It appears that this growth has definite implications for the position occupied by Mr. Doyle, and the growth has been reflected to some extent by the reclassification of that position to its current level of AA 5 - Supv. While I cannot say that the position will definitely reach the AO 1 - Supv level, it does appear that that possibility exists if the areas of growth that have occurred so far continue and/or are sustained.

9. The AA 5 class specification (Respondent's Exhibit 9) contains the following definition, areas of specialization, and examples of work performed:

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.

Areas of Specialization:

Staff services, general administration, specialized program administration, or any comparable specialization or combination thereof.

Examples of Work Performed:

Plans, organizes, and supervises the work of technical, semi-professional, or professional personnel; reviews and analyzes operating procedures; evaluates program and installs improvements.

Directs the administrative services of a moderate sized department or specialized services of a major department such as budgeting, accounting, personnel and purchasing.

Performs a wide variety of top level staff assignments in many broad areas for the head of a major department, often acting with full authority of a director or commission.

Directs a function or program of a department which may involve the supervision of technical or professional personnel and the responsibility for law enforcement or for program review of other agencies functions in a specialized area.

Conducts responsible statistical, financial, program and other research; recommends program improvements or changes in program direction or emphasis.

Represents the department in important public relations work involving program promotion, coordination and cooperation of other private and governmental agencies, and public appearances.

Performs related work as required.

10. The AO 1 class specification (Respondent's Exhibit 10) contains the following definition, areas of specialization, and examples of work performed:

Definition:

This is responsible and difficult administrative and/or advanced staff assistance work in a major state agency. Employees in this class are responsible for directing important phases of the department's program and/or for providing 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.

Areas of Specialization:

Staff services, general administration, specialized program administration, or any comparable specialization or combination thereof.

Examples of Work Performed:

Acts as principle staff advisor to department director on matters of administrative management, legislative proposals, program development, program effectiveness and related matters.

Directs departmental administrative services, including budgeting, fiscal management, purchasing, personnel management and property management.

Assumes responsibility for determining need and seeing that difficult and complex studies or surveys to improve administrative management are carried out, such as time and motion, space and equipment utilization, cost accounting, etc.

Acts as departmental representative in difficult and potentially controversial contacts with representatives of other organizations, legislative officials, and the general public.

Performs related work as required.

11. The AO 2 class specification (Respondent's Exhibit 11) contains the following definition, areas of specialization, and examples of work performed:

Definition:

This is highly responsible and difficult administrative and/or advanced staff assistance work in a major state agency. An employe in this class is responsible for providing all administrative and managerial services for the agency, including directing such staff services as personnel, budget preparation, fiscal management and purchasing; and/or for administering a complex departmental program. Employes exercise broad supervision and control over large numbers of technical, professional and clerical people. An employe in this class often serves as the principle advisor to the department head in developing departmental policies and rules and in promoting needed legislation. Within a broad framework of laws, rules, and policies, employes are responsible for many decisions affecting the department's program. The work as performed with a high degree of independence subject to administrative review by the department head.

Areas of Specialization:

Staff services, general administration, specialized program administration, or any comparable specialization or combination thereof.

Examples of Work Performed:

Plans and directs the major staff services of a large department, such as personnel and fiscal management, budget analysis and preparation, purchasing, and public relations; utilizes these staff services to develop and evaluate departmental programs.

Directs management studies for the establishment of valid quantitative and qualitative standards of measurement, and directs the development of operation methods and procedures.

Plans and directs departmental programs involving administrative operation of considerable diversity and complexity.

Develops departmental policies and regulations, and participates in the development and revision of legislation.

Develops programs to educate and inform the public of important departmental plans and programs which require public acceptance and cooperation.

Maintains effective working relationships with legislative committees, management executives of other departments, communications media, and organizations interested in the policies and activities of the department.

Performs related work as required.

12. Positions which the parties used as a basis for comparison to appellant's position are as follows:

a. Chief, Publications & Communications, Bureau of Information and Education, Department of Natural Resources (DNR), AA 5 - Sup (reclassified to AO 1 - Sup, effective January 6, 1988) (Diane Brinson, incumbent), position description identified as Respondent's Exhibit 4 and Appellant's Exhibit 4. The position summary on Respondent's Exhibit 4 states:

The goals of the position are to provide overall supervision of and direction to the publications, audio-visual, printing, and graphics services and programs of the Department of Natural Resources and the Bureau of Information and Education. Also, to assume responsibilities associated with the preparation and execution of budgets, plans and programs for department publications, audio-

visual programs, equipment and services; and to supervise and provide direction for library/information center services.

Respondent has conceded that this position's duties and responsibilities are similar to appellant's from a classification standpoint. The Commission finds that it is not at a higher level than appellant's position. There was very little change in this position in connection with its reclassification from AA 5 - Sup to AO 1 - Sup.

b. Operations Manager, Office of the Secretary of State, AO 1-Sup, Paul M. Hanks, incumbent. This position was reclassified to AO 2 - Sup effective June 19, 1988, based on the position description (Respondent's Exhibit 5) used by respondent in its review of appellant's position. This position is responsible for overall agency administrative operations such as budget preparation, fiscal controls, personnel, purchasing, etc.

c. Chief, Public Affairs Section, Bureau of Information & Education, DNR, AO 1 - Sup, Laurel F. Steffes, incumbent. The parties description (respondent's Exhibit 6) contains the following position summary:

The goals of the position are to provide overall supervision of and direction for the public affairs, Wisconsin Natural Resources Magazine and public involvement programs of the Department of Natural Resources and Bureau of Information and Education. Also, to be responsible for the overall programmatic and budgetary administration of the Bureau, under the direction of the Bureau Director, and I&E implemented internal communications programming.

This position supervises two AA 4's, two AA 5's, two PIO 4's, two PIO 3's, and various clericals. This position is comparable to appellant's from a classification standpoint. While this position has the added responsibility for "overall programmatic and budgetary administration

of the Bureau," appellant's program is larger and has the specific statutory authorization set forth in §115.28, Stats.

d. Assistant Capitol Finance Director, Capitol Finance Office, Division of Executive Budget and Planning, Department of Administration (DOA), AO 2. This position, which is described by the PD identified as Respondent's Exhibit 7, has responsibilities in the area of bond sales, compliance and investment.

e. Chief, Printing and Publications Section, Bureau of General Services, DOA, AO 2. The PD (Respondent's Exhibit 8) for this position contains the following position summary:

Planning, administration and management of the Printing, Publications, and Mail Services Section, Bureau of General Services; development of policy, management guidelines and technical standards statewide for Central Print Shop and Copy Centers, Bulk and First Class Mail, Document Sales and Distribution (including tourism literature distribution and statewide forms distribution) and printing paper supply; serves as technical advisor to Bureau Director for policies affecting above unit.

f. Director, Bureau of Public Information, Division of Public and Government Relations, Department of Development, AO 2 - Sup. The PD for this position (Appellant's Exhibit 6) reflects that this position is responsible not only for public information activities but also for the development and implementation of the Department's economic development marketing program and management of the agency's one-stop business information and assistance center. This position reports to the division administrator and supervises one PIO 4 and two Research Analyst 4's. This position has a wider range of program involvement than appellant's and is at a higher level from a classification standpoint.

13. By memo dated January 11, 1989 (Respondent's Exhibit 1), respondent through Personnel Specialist Cornell Johnson denied the request for reclassification of appellant's position from AA 5 - Sup to AO 1 - Sup that had been recommended by DPI's Personnel Specialist, Lee Hill and which had been received by DER on May 3, 1989. The memo stated that the position's "duties and responsibilities have not changed substantially since the last classification action in July of 1987." The memo went on to compare appellant's position to the AA 5 - Sup Chief of Publication and Communications position in DNR occupied by Diane Brinson and concluded that its duties and responsibilities were similar to appellant's "in the scope, impact and level of accountability for the program and administrative aspects of the position's responsibilities." The memo made a number of other position and class specification comparisons and concluded:

In comparison the scope of Mr. Doyle's responsibilities are limited to his section and any effect on the department occurs as a result of public relations efforts. Unlike the Administrative Officer 1 Supv. positions Mr. Doyle does not have responsibility for department wide initiatives used as budget development and program policy.

Therefore, we have determined that the position is more appropriately classified as Administrative Assistant Supervisor (PR 1-15) rather than the requested level of Administrative Officer 1 Supervisor (PR 1-16).

14. Appellant's position is more appropriately classified as AO 1 rather than AA 5 or AO 2.

#### CONCLUSIONS OF LAW

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

2. Appellant has the burden of proving that respondent erred in denying his request for reclassification, and that his position is more appropriately classified as AO 1 - Sup or AO 2 - Sup rather than as AA 5 - Sup.

3. Appellant has sustained his burden as to AO 1 - Sup but not as to AO 2 - Sup.

4. Appellant's position is more appropriately classified as AO 1 - Sup rather than as AA 5 - Sup or AO 2 - Sup.

#### DISCUSSION

The class specifications for AA 5, AO 1 and AO 2 recognize two different types of positions -- line administrative positions in charge of important departmental functions, and staff positions involving such functions as personnel, purchasing, accounting, etc. Appellant's position fits into the first category. Consequently, much of respondent's case which focused on examples of work performed and representative positions associated with the second category, was not particularly germane.

The distinctions between the class levels for the first category of positions as set forth in the class specifications are as follows:

AA5- "responsible line administrative...work...direct an important function of the department..."

AO 1 - "responsible and difficult administrative...work... responsible for directing important phases of the department's program..."

AO 2 - "highly responsible and difficult administrative ... work ... responsible ... for administering a complex departmental program."

Respondent contended that appellant was not responsible for either a major or a complex departmental program, as required for the AO 1 or AO 2 classifications. However, this contention was refuted by the persuasive testimony to the contrary of several high-level members of DPI management, including appellant's immediate supervisor, with extensive first-hand knowledge of the department and its programs. Therefore, the specifications as applied to this part of the record support an AO 1 or AO 2 classification.

Position comparisons are also important in this case because of the relatively general nature of much of the language in the specifications.

Appellant's attempt to compare his position to the AO 2 position in DOD fall short because the scope of that position goes considerably beyond public information and education. It also has responsibilities for the agency's economic development marketing program and its one-step business information and assistance center, which "provide(s) assistance to company executives and individuals interested in the state for plant location, relocation or expansion or business start up or acquisition."

Appellant was somewhat more successful in comparing his position to the AO 1 position in DNR which functions as Chief, Public Affairs Section. While this position has the additional responsibility for the "overall programmatic and budgeting administration of the Bureau, under the direction of the Bureau Director," Respondent's Exhibit 6, the positions are otherwise quite similar. The DPI public information and education program does appear on this record to be larger than the DNR program, and, unlike the DNR program, is operating under a specific statutory mandate.

In the final analysis, the most significant comparison is to the DNR position that functions as Chief, Publications and Communications, occupied by Diane Brinson. Both Ms. Kellor and Mr. Johnson expressed the opinion that this position was a close comparison to appellant's position. It is undisputed on this record that this position was reclassified from AA 5 - Sup to AO 1 - Sup in 1988 and that the position had undergone very little change prior to the reclassification, which would include the time frame that DER was comparing it to appellant's position. The fact that this position, which in DER's opinion was very similar to the position in question, was reclassified to AO 1 - Sup lends strong support to appellant's case for an AO 1 - Sup Classification for his

position. Respondent makes the point that in Mr. Johnson's opinion the DNR position was appropriately classified as an AA 5 - Sup. However, since it is uncontested that the position was reclassified to AO 1 - Sup and that it had undergone very little change from the PD Mr. Johnson used when he made the comparison to appellant's position, Mr. Johnson's generalized conclusion that in his opinion the position was correctly classified at the AA 5 - Sup level is insufficient to rebut the presumption that it is properly classified at the AO 1 - Sup level, and it can be relied on as a basis of classification comparison.

Respondent in its brief also argues that there was no logical and gradual change in the duties and responsibilities of the position as is required for reclassification pursuant to §3.01(3), Wis. Adm. Code. Respondent asserts that the decision to reclassify the position to AA 5 - Sup in April 1987 was based on almost all of the significant changes in appellant's position since he was hired in 1985. However, this contention is contradicted to a certain extent by Appellant's Exhibit 11, Ms. Kellor's summary of the meeting which occurred in 1987 following the reclass decision. This memo included the identification of a number of significant changes in the position which had been performed less than six months prior to the effective date of the reclass request (April 12, 1987), and/or had not been fully developed. Also, appellant's case identified continuing increases in sales, staffing, and other activities such as press releases and newsletters that continued beyond the 1987 effective date of the AA 5 - Sup reclass. This evidence goes to support a finding that there was a logical and gradual change. Because of this finding, the Commission does not address respondent's proposition that because DER made an allegedly non-appealed decision in 1987 on the appropriate classification (AA 5 - Sup) based on the changes that had occurred to that point, it follows that the Commission on an appeal of a 1989 reclassification denial cannot take into account changes



that occurred prior to the 1987 transaction in determining whether there has been a logical and gradual change pursuant to §3.01(3), Wis. Adm. Code, to support a reclassification.

ORDER

Respondent's action on this reclassification request is affirmed to the extent that it denied reclassification to AO 2 - Sup, and is rejected, and that part of the appeal is dismissed to the extent it denied reclassification to AO 1 - Sup, and so much of this matter that is not dismissed is remanded for action in accordance with this decision.

Dated: \_\_\_\_\_, 1990      STATE PERSONNEL COMMISSION

\_\_\_\_\_  
LAURIE R. McCALLUM, Chairperson

\_\_\_\_\_  
DONALD R. MURPHY, Commissioner

\_\_\_\_\_  
GERALD F. HODDINOTT, Commissioner

AJT:baj

Parties:

Greg Doyle  
DPI - 5th Floor  
P.O. Box 7841  
Madison, WI 53707

Constance P. Beck  
Secretary, DER  
P.O. Box 7855  
Madison, WI 53707