

STATE OF WISCONSIN

PERSONNEL COMMISSION

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RONALD KUROWSKI,

Appellant,

v.

Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondent.

Case No. 92-0441-PC

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DECISION  
AND  
ORDER

This is an appeal of a reallocation decision. A hearing was held on February 4, 1994, before Laurie R. McCallum, Chairperson, on the following issue:

Whether respondent's decision reallocating appellant's position to Natural Resource Educator-Objective rather than Natural Resource Educator-Senior was correct.

The duties and responsibilities of appellant's position are accurately summarized as follows:

20% A. Plan, develop and implement the interpretive program for the 19,000-acre Kettle Moraine State Forest-Southern Unit-- this program presents information relating to the natural and historical attributes of the property in the form of self-guided or staff-guided tours, brochures, or off-site educational programs, and requires knowledge of and research into the property's plant and animal species, geology, archaeology, conservation activities, and human settlement history.

15% B. Administer the property's interpretive program, including providing input to the park superintendent on budget development and program evaluation; setting program priorities and directing the work of other staff in certain program areas; providing input for park master planning process and Environmental Impact Assessment (EIA) process; serving as resource for other properties for their master planning and EIA

processes; completing required reports; raising private funds for certain interpretive facilities and projects.

10% C. Develop and maintain the property's natural history museum, including planning, designing, and building exhibits; collecting artifacts, photographs, and other items for exhibition and preservation; developing and maintaining a cataloguing system; developing and maintaining an audio visual program for visitors.

10% D. Initiate and conduct research relating to the property's natural features for purposes of the property's master planning process, for development and management of the property's natural areas, for management of the plant and animal species present on the property; and locate historical and archaeological sites and report these to the Wisconsin Historical Society for preservation and further reserach.

10% E. Develop and maintain five self-guided nature trails and two historical sites; serve as a resource for the development of new nature trails and wayside exhibits for other properties in the district.

10% F. Administer 12 state natural areas covering an area of over 3,000 acres for the Bureau of Endangered Resources, including preparing prescribed burning plans; directing work crews performing maintenance and management of natural areas; overseeing and completing studies on scientific and natural areas and providing recommendations for protection, preservation, and education; evaluating management techniques for specialized areas; recommending and assisting in the acquisition of new state natural areas. Appellant is one of only a few employees of the Department of Natural Resources with the level of expertise necessary to carry out this responsibility. This responsibility is not assigned to any of the other field naturalist positions.

10% G. Conduct off-property nature programs to students, teachers, civic organizations within a 50-mile radius of the property.

5% H. Supervise youth crews, LTE naturalist, and volunteers in carrying out interpretive projects.

5% I. Create a Kettle Moraine Friends Group of volunteers.

5% J. Assist in other program areas such as fire suppression, park rule enforcement, public relations.

The classification specification for the Natural Resources Educator series states as follows, in pertinent part:

**NATURAL RESOURCES EDUCATOR, OBJECTIVE**

Positions allocated to this level are full performance positions, functioning under general supervision and guidance in an assigned geographic area or field property. Positions at this level differ from the lower level in that most work objectives are longer-term in relation to the position's total assignments; broad guidelines are available, but may not be specific; and the positions have more latitude in planning and prioritizing teaching/educational assignments. Positions at this level typically function as Wildlife Education Specialists or Park Naturalists within a department property.

**Representative Positions**

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Park Naturalists - direct, administer, and are the property resource contacts for the Park Interpretive program. Positions direct and conduct interpretive programs, and direct the work activities of limited term employees, volunteers, and other staff in relationship to these activities. Positions provide technical assistance and/or programs to school teachers, school groups, college classes, other organizations (public and private), and the general public on the natural history of the property(s), including resource management and environmental quality issues. Positions design, develop, and maintain various types of self-guided nature exhibits, and features. Positions conduct field studies of the property to determine what is of significance, and alert staff to significant discoveries. Positions compile information, conduct research, and write about the park's natural and human history.

**NATURAL RESOURCES EDUCATOR, SENIOR**

Positions at this level typically serve as: (1) a district educator/naturalist responsible for administering and overseeing the naturalist and/or environmental education programs throughout the district; (2) a field educator and naturalist responsible for a program which is significantly more complex (breadth of the program, variety of naturalist and environmental education issues, work with educators) than the previous level; or (3) the central office consultant for a particular educational program or project; functioning under general supervision. Positions at this level differ from lower level positions in that work assignments are more broadly defined; positions develop and work on major educational projects with little or no specific

direction or review. Positions at this level assume an independent role in working with other educational consultants, teachers, university personnel, youth leaders, citizens, other governmental agencies, department staff, and others.

### **Representative Positions**

**District Naturalist** - Develop, implement, coordinate, and administer a districtwide conservation and nature study educational program with special emphasis on state parks, forest, trails, and wildlife areas. Provide guidance and direction for vegetative and wildlife management on state park, forest and trail properties. Advises and forms partnerships with schools, agencies, universities, colleges, museums, and organizations in planning and developing outdoor education, natural resources and interpretative programs. Assist other DNR programs in providing interpretive and educational programs on department lands. Serve as member of the district park management team.

Appellant's position is a field naturalist position within the Southeast District. This district has two other field naturalist positions which are classified at the Objective level and are assigned the same general types of duties and responsibilities relating to the development, implementation, and administration of the interpretive programs of their assigned property as appellant's position. One of these positions is assigned to the Northern Unit of the Kettle Moraine State Forest which, like the Southern Unit to which appellant's position is assigned, is a complex property based on the number of types of plant and animal species, its geology, the number and types of recreational opportunities, the extent of its use by the public, and the number and variety of interpretive areas. The Southeast District does not have a district naturalist position.

The Southern District has one field naturalist position assigned to the Devil's Lake State Park property, and no district naturalist position. This field naturalist position is classified at the Objective level. This position performs naturalist functions for other properties within the Southern District but spends the majority of time developing, implementing, and administering the interpretive program for Devil's Lake State Park.

Appellant's position does not satisfy the requirements of any of the three allocations of the Senior classification:

(1) Appellant's position does not serve as a district naturalist but, rather, his duties and responsibilities are primarily limited to his assigned property. Although the Southeast District does not have a district naturalist position, appellant did not show that his position carried out this function, i.e., the record shows that the functions of a district naturalist are carried out by several positions in the Southeast District, including the three field naturalist positions. In addition, appellant did not show that his responsibilities relating to the interpretive program on his assigned property were comparable to those of a district naturalist responsible for the naturalist and/or environmental educational programs for all the types of properties, e.g., forest, park, wildlife area, natural area within a district.

(2) The record does not show that appellant's position has a sufficiently significant environmental educational component to satisfy this allocation; or that the interpretive program for which he is responsible is significantly more complex than the programs for which other field naturalist positions are responsible. For example, expert testimony at hearing indicated that the complexity of the Southern Unit property, as relevant to its interpretive program, was not significantly greater than that of the Northern Unit.

(3) It is clear from the record that appellant's position does not function as a central office consultant, i.e., the record shows that the primary duties and responsibilities of appellant's position relate to a particular property within a district.

The one aspect of appellant's position which appears to be a higher-level responsibility is that related to appellant's work with the natural areas within the Southern Unit and with other natural areas throughout the state. However, as appellant's position description indicates, this assigned responsibility consumes only 10% of appellant's time. Since classification decisions in a case such as this one rely on how a position spends the majority of its time, this assignment alone cannot justify appellant's classification at the Senior level.

The primary duties and responsibilities of appellant's position are well-described by the language of the specification for the Objective classification and are closely parallel to the duties and responsibilities listed for the Objective-level representative park naturalist position.

Order

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

Dated: April 19, 1994 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

LRM:irm

  
DONALD R. MURPHY, Commisssioner

  
JUDY M. ROGERS, Commissioner

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**NOTICE  
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW  
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION**

**Petition for Rehearing.** Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

**Petition for Judicial Review.** Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served

and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)
2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)