

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 RONALD SCHUTZ,
 Appellant,
 v.
 Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS, and
 Secretary, DEPARTMENT OF
 HEALTH AND SOCIAL SERVICES,
 Respondents.
 Case No. 93-0188-PC
 * * * * *

DECISION
 AND
 ORDER

This is an appeal of a decision to deny appellants request to reclassify his position from Vocational Rehabilitation Specialist 1 (VRS 1) to VRS 2. A hearing was held on March 15, 1994, before Laurie R. McCallum, Chairperson.

At all times relevant to this appeal, appellant has been employed by the Central Wisconsin Center, Division of Care and Treatment Facilities, Department of Health and Social Services. The duties and responsibilities of appellants position during the relevant time period are accurately summarized as follows:

80% Locate and monitor vocational opportunities, i.e., opportunities to engage in productive work on CWC grounds and in the community, for CWC residents, for those making the transition from CWC into the community, and for former CWC residents who have made the transition into the community; assist entities providing vocational opportunities with developing and maintaining effective vocational environment for developmentally disabled; develop markets for products and services of CWC residents; provide information on preparation of the developmentally disabled for participation in vocational opportunities to CWC residents, their families, students, and others; serve as resource for similar programs in other DHSS institutions or outside DHSS.

20% Provide training to other CWC staff relating to vocational rehabilitation techniques and programs and adult life planning; participate in certain individual resident vocational evaluations; participate in training of staff of other DHSS institutions in relation to vocational rehabilitation in general and to vocational

rehabilitation programs developed by appellant at CWC in particular.

Appellant has been primarily responsible for creating and establishing a small business cooperative owned by CWC residents. This CWC cooperative is loosely affiliated with a similar cooperative in Rhinelander. Appellant used the CWC model to assist Rhinelander in establishing their cooperative.

Prior to the date of the subject reclassification request, appellant had participated in two or three instructional workshops relating to the small business cooperative concept for the developmentally disabled. Those to which these workshops were presented included individuals from other DHSS institutions and from county developmental disability service agencies. It is not uncommon for DHSS staff at many different levels and in many different specialties to participate in instructional workshops or other information-sharing sessions at which other DHSS staff and the staff of other public and private agencies are present.

Positions offered for comparison purposes in the hearing record include:

Jerry Alexander--VRS 1--DHSS Division of Vocational Rehabilitation--this position serves as a consultant to regional offices in the areas of job analysis, job site modification, job search techniques, job seeking skills, job readiness assessment, reasonable accommodations; assists regional administrators and local office supervisors in establishing and monitoring cooperative agreements with community employment agencies; provides technical assistance to counselors and placement specialists relating to the placement of injured workers; assists regional administrators and local office supervisors in developing comprehensive service delivery program plans; works with other specialists in developing placement and purchase of service plan guidelines, performing special studies, developing program for training of worksite supervisors, developing specialized employment projects on a regional basis, and developing an agency marketing plan.

Mary Ridgely--VRS 2--DHSS Division of Vocational Rehabilitation--this position is responsible for developing, through liaison between the Division of Vocational Rehabilitation and the Division of Community Services, statewide policies and procedures to expand involvement and commitment of businesses and trade associations to hire and support persons with severe disabilities in a wide variety of employment sites; developing, in cooperation with DVR, DCS, and the non-profit agency which subcontracts with the state, quality improvement

training on a statewide basis, training on natural supports for persons with severe disabilities, and training for businesses and trade associations relating to job restructuring, reasonable accommodation, and individually designed job training; developing flexible strategies for rate setting and subcontracts for long term support settings for supported employment for persons with severe disabilities on a statewide basis.

Mary Dibble--VRS 2--DHSS Division of Community Services--this position is responsible for providing complex analyses of child abuse and neglect and child protection program issues in order to identify problem areas and to formulate strategies to improve statewide child abuse and neglect programs; providing program coordination, consultation, technical assistance and training to county departments of social services and human services, assuring accurate interpretation and implementation of state and federal laws and regulations; serving as a liaison with county child protective service programs, federal child abuse and neglect staff, the Children's Trust Fund and other agencies and groups in relation to child abuse and neglect matters; working as part of a team with other unit staff to implement standards and to assure consistent, structured decision-making in child protective services in all 72 county child protective services units; participating in the developments of the annual State Child Abuse and Neglect Plan and overseeing the budget for statewide child abuse and neglect initiatives; developing and analyzing child abuse and neglect programs and policies.

The position standard for the Vocational Rehabilitation Specialist series states as follows, in pertinent part:

Vocational Rehabilitation Specialist 1

Definition:

This is professional consultative and coordinative vocational rehabilitative training work. Under the limited supervision of a central office supervisor, employes in this class function as field office consultants or central office specialists.

Representative Position:

STAFF DEVELOPMENT CONSULTANTS - responsible for the development, coordination and implementation of programs for new employe orientation and training or post induction training.

Vocational Rehabilitation Specialist 2

Definition:

This is responsible consultative and coordinative vocational rehabilitation program work. Employees in this class are responsible for the planning, development, and coordination of a specialized program activity under the general direction of a central office administrator.

Representative Position:

REGIONAL FACILITIES AND HALFWAY HOUSE CONSULTANTS -

provides leadership and technical consultation to private rehabilitation facilities selling services to the state agency. Provides professional consultation to state agency supervisors and counselors in client services and procedures dealing with private rehabilitation facilities.

It is undisputed that the VRS position standard is outdated and its language of limited assistance in resolving the issue here. However, a broad distinction is evident from such language, i.e., the VRS 1 level is intended for those positions which are primarily involved in providing training services as a consultant or coordinator and do so for a field office or for a narrow program area out of the central office, and the VRS 2 level for providing consulting and coordination services not limited to training services and for providing these services for a broader statewide program area. This distinction is consistent with the classifications of the positions offered for comparison purposes, i.e., the Alexander VRS 1 position provides consulting and coordination services to regional and local offices and participates in the development of statewide program guidelines, training programs, and an agency marketing plan; whereas the Ridgely and Dibble VRS 2 positions have statewide responsibility for program and policy development in their assigned program areas.


Applying this framework to the duties and responsibilities of appellant's position, it is apparent that appellant's position is correctly classified at the VRS 1 level. Appellant's position is primarily responsible for locating and monitoring vocational opportunities for developmentally disabled individuals associated with Central Wisconsin Center, including creating and establishing a small business cooperative owned by CWC residents; and for

providing training to CWC staff and staff of other institutions relating to vocational rehabilitation techniques and programs. The fact that the small business cooperative that appellant developed for CWC residents was utilized by him as a model to assist another group in Rhinelander in establishing a similar enterprise; and the fact that appellant has drawn on his experience at CWC to provide training to staff of other DHSS institutions or other entities does not render his position one with statewide program and policy responsibilities comparable for classification purposes to the Ridgely and Dibble VRS 2 positions.


ORDER

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

Dated: June 21, 1994 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

LRM:lrn


DONALD R. MURPHY, Commissioner

Parties:

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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.)