

STATE OF WISCONSIN

PERSONNEL COMMISSION

**JON W. HECOX AND BOYD
HILLESTAD,**
Appellants,

v.

**Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,**
Respondent.

DECISION AND ORDER

Case Nos. 96-0043, 0045-PC

The above-noted appeals were combined for hearing on October 10, 1996. The parties decided to have the decision issued based upon the record testimony without the submission of post-hearing arguments.

The hearing issue was noted in a conference report dated June 10, 1996, as shown below:

Whether respondent's decision to reallocate appellants' position to the Media Technician 3 classification rather than the Media Technician 4 classification was correct.

The initial classification specification (Class Spec) for Media Technicians (MT) was created in 1990. The union representing the positions received complaints that the Class Spec allowed no movement within the MT series to acknowledge job changes. Accordingly, the union and the Department of Employment Relations (DER) decided to study the MT series a second time, including a review of technological changes and resulting impact of those changes on the jobs.

June Streveler was the DER Personnel Specialist who coordinated the second survey. She wrote the new Class Spec for MTs, which is in the record as Resp. Exh. 1. The new MT Class Spec provided 4 classification levels, from MT1 through MT4, with MT4 being the most advanced. The definitions of MT3 and MT4 are shown below with the same emphasis as shown in the original document.

MEDIA TECHNICIAN 3: This is the senior level for positions that work in an environment where a wide variety of technologies are used to receive and send signals to a local, regional, statewide and national or international audience. The majority of time is spent working in two or more functional areas or being responsible for one functional area where no technical supervision is available. **Accountability/Responsibility:**

Employe resolves most questions and problems, and refers only the most complex issues to higher levels. May periodically assist in orienting, training, assigning and checking the work of lower level employees. Assignments reflect variety and complexity, are generally long-term, and stated in broad general terms. Employe establishes daily routine and longer range methods, priorities, and procedures for meeting objectives. Work is randomly reviewed to monitor quality. **Complexity/Scope** Duties and tasks are varied and complex. Integrate multiple technologies to accomplish goals. **Miscellaneous:** The communication and coordination required to accomplish goals include internal and external sources. The purpose for contact is to exchange factual information, and consult, plan and coordinate solutions to problems. Work environment requires normal safety precautions. **Functional Area Examples:** Positions assigned maintenance duties perform repair, design, construction, modification, and installation of complex telecommunication equipment and systems. Positions assigned operation duties are responsible for the monitoring, correcting and reporting of incoming and outgoing signals to ensure compliance with industry standards. Positions assigned production duties are responsible for all production, editing, planning, and scheduling of telecommunication programming for storage or live transmission using studio and remote production equipment. Work is performed under the general supervision of a Media Supervisor or program manager.

MEDIA TECHNICIAN 4: This is advanced level media technician work. The majority of time is spent performing the most complex assignments and/or leadwork duties. **Accountability/Responsibility:** Employe resolves complex problems and issues. Objectives are long-term and defined in broad, general programmatic terms related to the total telecommunication program. Employes have regular and continuing participation in the development of long-range program goals and objectives. Work review is limited to the evaluation of program goals and achievements in the assigned area. Provide on-the-job training to lower level Media Technicians regarding technical industry standards, specifications, instructions and procedures. May be responsible for leadworking one or more employes assigned to an area of expertise. . . . **Complexity/Scope:** Duties and tasks reflect substantial variety and complexity. Work consists of advanced technical analysis where decisions regarding procedures include major areas of uncertainty in approach and methodology because of continuing changes in the program, technological developments, conflicting requirements, or unpredictable phenomena. Responsible for the research and design of a variety of telecommunication systems. **Miscellaneous:** The communication and coordination required to accomplish goals include a variety of internal and external sources. The purpose for contact is to exchange factual information; consult, plan and coordinate solutions to problems; and defend decisions, settle conflict and negotiate agreement. Work environment may involve high risk with exposure to potentially dangerous situations or unusual environmental conditions and require a high degree of safety precautions. Work is performed with the highest level of independence and the minimal supervision of a Media Supervisor or program manager.

As an aid in understanding the above text, the Class Spec contains the following definition of “functional area”.

Functional Area: an assigned duty or activity. The following are functional areas:

(1) **maintenance**: install, align, repair, maintain and correct performance of all electronic equipment and systems associated with telecommunications.

(2) **operations**: monitor, evaluate, setup, test, route, record, operate and resolve problems associated with the operation of telecommunication systems and equipment.

(3) **production**: integration of programmatic sources using multiple telecommunication systems and equipment interacting with other personnel to achieve a desired program or service.

Both appellants work at the WHA-TV in the Departments of Communication Arts and Journalism. Their positions were classified as MT3s as a result of DER’s survey, effective April 14, 1996. The PDs for each appellant have the same duties listed but with slightly different time percentages associated with the duties. Appellants testified that their PDs were correct, including the time estimates. (Resp. Exhs. 2 and 3) The introductory sentence to each PD goal is recited below.

Goal A. Perform corrective and preventative maintenance on all of the various electronic systems and devices in use in the Departments of Communication Arts and Journalism studios and field production facilities and their associated support equipment.

Goal B. Set up and operate color cameras, video switchers, and other specialized support equipment for productions.

Goal C. Set up and mix audio, operate tape recorders, microphones, and other equipment used in the recording, sweetening and editing of sound for program production.

Goal D. Electronically edit field or in-house video production segments, along with special effects from various sources, into complete programs either independently or with a producer.

The appellants’ positions are best described by the MT3 definition in the Class Spec. Both appellants work in an environment where a “wide variety of technologies are used” to receive and send signals to a local, regional, statewide and national audience. The majority of their time is spent in “two or more functional areas”, within the meaning of MT3 definition. Their positions meet all the requirements of the MT3

definition. Mr. Hecox has worked in his position longer than has Mr. Hillestad. In fact, Mr. Hecox trained Mr. Hillestad when Mr. Hillestad was hired as a MT2 and until Mr. Hillestad was reclassified to the MT3 level prior to the effective date of the survey. Mr. Hecox's training involvement, accordingly, was of a "periodic" nature contemplated under the MT3 definition.

The appellants' positions do not meet all the requirements of the MT4 definition. For example, appellants are not assigned the ongoing task of on-the-job training of "lower level Media Technicians". Also, their contacts are not made to "defend decisions, settle conflict and negotiate agreement."

The classification of the appellants' positions at the MT3 level, is consistent with comparable PDs in the record. (Resp. Exhs. 8-Kelly PD, 10-Pfankuch PD and 11-Sams PD.)

OPINION

The burden of proof in a reallocation case is on the appellants to show that they should be reallocated as requested, *Vranes v. DER*, 83-0012-PC (7/19/84), and the appellants must establish the requisite facts by a preponderance of the evidence, *Tiser v. DNR & DER*, 83-0217-PC (10/10/84). The key determination is whether the appellants' responsibilities are better described at the lower or higher classification level. *Stensberg, et al. v. DER*, 92-0325-PC, etc. (2/20/95).

The appellants' positions are required to independently perform complex and varied MT work. Their positions meet all requirements of the Classification Spec definition of the MT3 level, while the same is untrue for the MT4 level definition.

The appellants might wish that the MT4 Classification Spec were written differently so as to eliminate the requirements not met by their positions. The Commission, however, lacks the authority to require the Classification Spec and must apply the same as written. *Zhe, et al. v. Pers. Comm.*, 81-CV-6492 (11/820).

ORDER

That respondent's decisions reallocating appellants' positions to the MT3 level are affirmed and these appeals are dismissed.

Dated: January 16, 1997.

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

JMR
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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 (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) 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.)

2/3/95