

STATE OF WISCONSIN

PERSONNEL COMMISSION

PETER McMULLEN
Appellant,

v.

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

FINAL DECISION AND
ORDER

Case No. 97-0110-PC

This is an appeal of a reallocation decision. A hearing was held on March 16, 1998, before Laurie R. McCallum, Chairperson. The parties were permitted to file post-hearing briefs and the briefing schedule was completed on May 25, 1998.

Effective August 3, 1997, appellant's position was reallocated from the Bookstore Manager 1 to the Program Assistant 2 (PA 2) classification. Appellant contends in this appeal that his position should have been reallocated to the PA 3 level.

The duties and responsibilities of appellant's position during the time period relevant to this appeal may be summarized as follows:

75% A. Serve as the marketing manager for the bookstore at the University of Wisconsin-Milwaukee, including planning and carrying out promotions for each of the bookstore departments; producing an annual marketing report that tracks all income and expenses of the marketing department; assisting in the development and production of the annual Bookstore Calendar; overseeing the production of camera-ready artwork; overseeing bookstore signage, and scheduling and assisting in setting up displays for the storefront; billing vendors for any cooperative advertising and monitoring to insure proper credit is received; overseeing the mailing of surveys, new student information, and bookstore sales information, and distributing bookstore promotional materials; processing invoices for payment; scheduling and ordering materials for American Express, credit cards, magazines, and newspaper commissions; and supervising student publicity assistants.

25% B. Storewide bookstore duties, including participating in weekly staff meetings; opening and/or closing the bookstore as scheduled; resetting cash registers to clear and change dates; unlocking or securing work areas as directed; assisting other bookstore departments as necessary with peak period operations and special promotions; and attending training programs and seminars for professional development.

The Program Assistant classification specification provides as follows, in pertinent part:

II. CLASS DESCRIPTIONS

PROGRAM ASSISTANT 2

This is work of moderate difficulty providing program support assistance to supervisory, professional or administrative staff. Positions are allocated to this class on the basis of the degree of programmatic involvement, delegated authority to act on behalf of the program head, level and degree of independence exercised and scope and impact of decisions involved. Positions allocated to this level are distinguished from the Program Assistant 1 level based on the following criteria: (1) the defined program area for which this level is accountable is greater in scope and complexity; (2) the impact of decisions at this level is greater in terms of scope of the policies and procedures that are affected; (3) the nature of the program area presents differing situations requiring a search for solutions from a variety of alternatives; and (4) the procedures and precedents which govern the program area are somewhat diversified rather than clearly established. Work is performed under general supervision.

PROGRAM ASSISTANT 3

This is paraprofessional work of moderate difficulty providing a wide variety of program support assistance to supervisory, professional or administrative staff. Positions are delegated authority to exercise judgment and decision-making along program lines that are governed by a variety of complex rules and regulations. Independence of action and impact across program lines is significant at this level. Positions at this level devote more time to administration and coordination of program activities than to the actual performance of clerical tasks. Work is performed under general supervision.

PROGRAM ASSISTANT 2-WORK EXAMPLES

Provides administrative assistance to supervisory, professional and administrative staff, head of a department or program.

Schedules department facilities usage.

Maintains inventory and related records and/or reports and orders supplies.

Conducts special projects: analyzes, assembles, or obtains information.

Maintains liaison between various groups, both public and private.

Directs public information activities and coordinates public or community relations activities.

Prepares budget estimates, plans office operations, controls bookkeeping functions and handles personnel transactions.

Plans, assigns and guides the activities of subordinate employees engaged in clerical program support work.

Corresponds with various outside vendors or agencies to procure goods or information for program operations.

Develops and recommends policies, procedures, guidelines and institutions to improve administrative or operating effectiveness.

Screens and/or reviews publications; drafts or rewrites communications; makes arrangements for meetings and maintains agendas and reports; arranges schedules to meet deadlines.

Maintains extensive contact with other operating units within the department, between departments or with the general public in a coordinative or informative capacity on a variety of matters.

Prepares informational materials and publications for unit involved, and arranges for distribution of completed items.

Attends meetings, workshops, seminars.

PROGRAM ASSISTANT 3 - WORK EXAMPLES

Prepares reports, research project data, budget information, mailing lists, record keeping systems policies and procedures, training programs, schedules and generally oversees operations.

Plans, assigns and guides the activities of a unit engaged in the clerical support of the program assigned.

Develops and/or revises selected policies and procedures affecting the administration of the program.

Answers questions regarding the program or division via telephone, correspondence or face-to-face contact.

May serve as an Assistant in charge of secretarial and administrative tasks in an operation handling cash procedures, equipment orders, inventory, program preparation, pricing, etc.

Composes correspondence, maintains files of program related data, sets up schedules and performs any related administrative support functions necessary to the operation of the program.

May be in charge of public relations, preparing and sending out pamphlets, brochures, letters and various program publications.

The following two Program Assistant positions at the University of Wisconsin-Milwaukee bookstore were offered for comparison purposes:

1. PA 3 - Lorna Mouradian: This position functions as the bookstore's Loss Prevention Manager with responsibility for supervising collection activities (35%) for bad checks, charges, and accounts receivable; coordinating the internal security force (30%), including the detention of suspected shoplifters and the proper protection of their rights, liaison with campus police, supervising student security guards, writing and maintaining bookstore security policies and procedures, conducting security training, investigating reports of internal thefts, liaison with district attorney's office, and conducting background checks on security staff; preparing reports (15%), including "NSF Monthly Aging Report," annual list of checks and receivables to be written off, and report of service desk activity; performing other related duties (10%), including assuring delivery of next-day start-up funds by security staff, assuring deposits of daily receipts with cashier's office, maintaining and replenishing cash at the proper levels for check cashing and change fund, liaison with the Division of Vocational Rehabilitation and Department of Veterans Affairs regarding direct billing of student books and supplies and assuring compliance with DVR and DVA regulations, assisting with bookstore budget preparation, and procuring undergraduate bulletins for distribution to new students.

The Mouradian position is required to be familiar with the provisions of the Uniform Commercial Code; the criminal code as it relates to the crimes of shoplifting, forgery, and bad checks; numerous banking laws; and laws relating to collections. Certain of the reports generated by this position are used for external purposes, are generated to meet requirements established by law, and go directly into the bookstore's cash statements. This position has significant cash handling responsibilities, significant responsibility for developing and implementing policies and procedures, program responsibilities that cross program lines, and some budget responsibilities.

2. PA 3 - Mary Luce: This position supervises the bookstore's customer service department (35%), including coordinating the storewide physical inventory (\$1.5 million), preparing sales and inventory reports for internal and external use, and supervising student and LTE customer service staff (80 hires annually), and develops and implements bookstore policies and procedures relating to general store policies, cashiering, information desk, and the MBS inventory management system; orders, inventories and merchandises film products and film processing, postage stamps, and pre-paid phone cards and gifts certificates (10%), including arranging promotions and advertising; supervises the bookstore cash control system (10%), including cash auditing; and provides computer system support for the bookstore's information management system (30%), including liaison between hardware and software vendors and bookstore personnel, installing software and database updates, performing preventive maintenance functions, performing routine corrective action, anticipating and identifying future software needs, consulting with bookstore department managers on applications, anticipating and identifying future hardware needs by monitoring data growth and advances in technology, maintaining computer documentation and writing supplemental documentation, training bookstore personnel, identifying network needs and developing application solutions.

This position not only has responsibility in a broad and relatively complex program area, but also has external reporting responsibilities and significant policy development responsibilities.

Appellant's position's responsibilities:

(1) relate to a relatively narrow program area, particularly when consideration is given to the fact that 71% of the bookstore's sales are of textbooks, which are considered a self-marketed product;

(2) are not governed by a variety of complex rules and regulations, but by narrow UW, bookstore, and industry guidelines, such as those relating to the use of the University of Wisconsin logo and those relating to limitations on disbursement of promotional materials;

(3) do not have significant impact across program lines;

(4) do not involve responsibility for developing bookstore or program policies or procedures other than in such narrow areas as the development of policies or procedures for cashiers to employ in processing certain special sales transactions;

(5) do not involve supervisory or lead work responsibilities over permanent staff; and

(6) do not involve significant budget responsibilities.

Appellant's position does not, therefore, meet the PA 3 requirements stated in the classification specification that positions at this level provide a "wide variety" of program support assistance, exercise judgment and decision-making along program lines that are governed by a "variety of complex rules and regulations," and have responsibility "across program lines."

Furthermore, appellant's position does not compare favorably to the two PA 3 positions offered for comparison purposes and described above. The Mouradian position is responsible for making decisions in program areas governed by a variety of complex rules and regulations, including the Uniform Commercial Code, the criminal code, banking laws, and collections laws; preparing reports and exercising security responsibilities which cross program lines; and carrying out significant budget and policy development responsibilities. The Luce position not only is responsible for a broad and relatively complex program area, but also has significant responsibility for developing reports which cross program lines and significant policy development responsibilities. These factors, i.e., relatively broad and varied program area, responsibility for interpreting and applying complex rules and regulations, significant program policy development responsibility, leadwork or supervisory authority, program responsibility which crosses program lines, and budget development and monitoring responsibility, were relied upon by the Commission in determining that positions were properly classified at the PA 3 level in *Havel-Lang v. DHSS & DER*, 91-0052-PC, 8/26/92; *Gilbert v. DOA & DER*, 90-0397-PC, 8/16/91; *Baldwin v. UW & DP*, 82-87-PC, 1/20/83; *Olbrantz v. DHSS & DER*, 84-0065-PC, 9/12/84; and *Smart v. UW & DER*, 87-0002-PC, 11/4/87. The conclusion here that appellant's position

fails to satisfy the requirements for classification at the PA 3 level is consistent with these decisions.

ORDER

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

Dated: July 1, 1998

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STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


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 (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.)

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