

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF SHIRLEY M. AHERN Department of Fish and Game Docket #93 - C-21

April 5, 1995

On June 1, 1994, the New Hampshire Personnel Appeals Board (Bennett, Rule and McGinley) issued a decision in the above-captioned classification appeal, finding that the Director of Personnel should make a correction to the appellant's classification which would address her responsibilities in the areas of Information Systems Management as well as biological data collection, reporting and program implementation. The Board also noted that although the additional points which would be generated by increasing the "Impact" factor would seem to indicate that the position should be reallocated to salary grade 21, the Board understood that only three of the nine factors were addressed during the hearing and discussed in the context of this decision. The Board said that in a general sense, it believed that Ms. Ahern's position was improperly allocated at salary grade 20.

In a letter to the Board dated September 15, 1994, Ms. Ahern asked the Board for clarification of its order, specifying what action the Board wished the Director of Personnel to take with regard to the Board's original classification decision in this matter. In her letter, Ms. Ahern refers to discussions between the Director of Personnel and the Business Administrator at the Fish and Game Department, in which the Personnel Director had allegedly informed the Fish and Game Department that there was no salary grade 21 position in either the Biologist Series or the Management Information Series, and she was therefore unsure what action she was expected to take.

RSA 21-I:57 states:

"The employee or the department head, or both, affected by the allocation of a position in a classification plan shall have an opportunity to request a review of that allocation in accordance with rules adopted by the director under RSA 541-A, provided such request is made within 15 days of the allocation. If a review is requested by an employee, the director shall contact the employee's department head to determine how the employee's responsibilities and duties relate to the responsibilities and duties of similar positions throughout the state. The employee or department head, or both, shall have the right to appeal the director's decision to the personnel appeals board in accordance with rules adopted by the board under RSA 541-A. If the board determines that an individual is not properly classified in accordance with the classification plan or the director's rules, it shall issue an order requiring the director to make a correction."

The Board did not select the appropriate classification, or order that the classification be limited to either the Biologist or Management Information Systems class series. Rather, the Board wished the Director to examine the position in its entirety and determine if there is a more appropriate job classification which will address Ms. Ahern's specialty areas, as well as

recognizing that her field assignments are extremely limited in comparison to the duties described in the class specification for a Biologist I.

While the Board found that altering the "Impact" factor from the third to the fourth level would yield assignment at salary grade 21, it did so recognizing that only three of the nine evaluation factors were discussed and that some of the remaining six factors could, and perhaps should, be reduced to more accurately reflect the nature of the position. Overall, this might result in a change in the job classification without a change in the salary grade to which it is allocated. For instance, the 20 points gained by increasing the "Impact Factor" from the third to the fourth level could be offset by reducing the Factors of "Working Conditions" and "Physical Demands" from Level 3 to Level 2, consistent with the infrequency of Ms. Ahern's field assignments (less than 20%).

In this instance, Ms. Ahern appealed to the Board asking that she be reclassified from Biologist I to Biologist II. The Board found that the appellant is not properly classified as a Biologist I, but that her duty assignments do not support reclassification to Biologist II. The Board directed the Personnel Director to make a correction, in Ms. Ahern's position classification which would address her responsibility in the area of Information Systems Management. The Board did not order reclassification to any specific job class, nor did it require the director to assign Ms. Ahern's position to a salary grade. Rather, it ordered the director to make a correction to the classification which would address the various responsibilities of Ms. Ahern's position.

If no action has been taken to implement the Board's order within 45 days, specifically a review of all Ms. Ahern's duties and responsibilities in comparison to classifications which could more appropriately reflect the appellant's duties, Ms. Ahern may request a further review by the Board for specific recommendations on position classification and salary grade.

THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Vice-Chairman



Lisa A. Rule, Commissioner



Karen S. McGinley, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Shirley Ahern, Wildlife Biologist, Department of Fish and Game
Richard Cunningham, Business Administrator, Fish and Game Department

NEW HAMPSHIRE
Division of Personnel

My 5, 1995

*Received -
5-5-95
11:30 AM
MAS*

Shirley Ahern, Biologist
Fish and Game Department
Hazen Drive
Concord, NH 03301

Re: Classification Appeal - Position #17080

Dear Ms Ahern:

On April 5, 1995, the Personnel Appeals Board ordered that the Director of Personnel make a classification determination which would address the various responsibilities of your position. Accordingly, I have again reviewed all of the point factor ratings currently assigned to the Biologist I classification. As requested, I have also reviewed your duties and responsibilities in comparison to other existing state classifications.

With regard to the point factor ratings, I remain of the opinion that your position is correctly rated at Impact level 3, which requires "contributing to immediate, ongoing agency objectives by facilitating the direct provision of services to the public or other state agencies." Level 3 of the Impact factor goes on to state that errors result in "inaccurate reports or invalid test results and require a significant investment of time and resources to detect." However, although I believe that the Impact factor is correctly rated, it would appear that the Working Conditions and Physical Demands factors could be lowered from level 3 to level 2, consistent with the infrequency of your field assignments. The result of lowering the points assigned to the Working Conditions and Physical Demands factors would be a decrease in total points from 370 (salary grade 20) to 360 (salary grade 19). However, as stated in the Personnel Appeals Board decision dated April 5, 1995, the total points assigned to your position would only increase to 390 even if the Impact factor was increased, remaining with the range for salary grade 20.



Shirley Ahern, Biologist
Fish and Game Department

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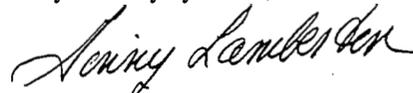
May 5, 1995

You obviously have special personal talents in computers in addition to your knowledge as a professional Biologist. Your personal talents appear to provide the Fish and Game Department with information and data that might not have been available at this time. However, we do not classify positions based upon an individual employee's skills and knowledge. If we were to attempt to do this, each and every position in the classified service would have different point assignments due to the particular incumbent. As you can imagine, this would not be practical. Consequently, we classify positions based on the preponderance of point factors to a classification.

In this instance, the points could be changed as outlined above based in your personal qualifications. The end result would not be to your advantage salary grade wise. In the alternative, your computer duties as a Biologist do not match any other current classifications. Further, if you were to vacate your position, the individual at your agency that is responsible for information systems would most likely be required to continue your efforts.

Therefore, my decision is to continue to classify your position as a Biologist I.

Very truly yours,



VIRGINIA* A. LAMBERTON
Director of Personnel

VAL: SJW: js

cc: Mary Ann Steele, Executive Secretary ✓
Personnel Appeals Board
Richard Cunningham, Business Administrator, Fish and Game Department

State of New Hampshire



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APPEAL OF SHIRLEY M. AHERN
Department of Fish and Game
Docket #93-C-21

June 1, 1994

The New Hampshire Personnel Appeals Board (Bennett, Rule and McGinley) met Wednesday, December 1, 1993, to hear the classification of Shirley M. Ahern, an employee of the Department of Fish and Game, regarding the Personnel Director's decision denying a request to reclassify her position from Biologist I (salary grade 20) to Biologist II (salary grade 22). Ms. Ahern appeared pro se. Personnel Director Virginia Lamberton appeared on behalf of the Division of Personnel.

The specifics of Ms. Ahern's appeal were set forth in her letter to the Board dated June 24, 1993. She argued that her duties and responsibilities had changed and increased since the last amendment to her supplemental job description on 8/15/89. She listed the following additional responsibilities as supportive of a reclassification to Biologist II.

January 1990 - assigned as the principle investigator of a new federal aid project, including responsibility for design, development and implementation.

1990 - assigned full responsibility for the Department's Moose Lottery Program, including maintaining the computer programs which she designed and wrote to conduct the lottery, reviewing department rules dealing with the lottery, recommending changes to the lottery program, and running the

lottery.

1991 - assigned as study leader for federal aid project W-76-R Study II - State Lands Furbearer Management (previously assigned to Biologist II Theodore Walski), including responsibility for issuing permits to trap on all state managed lands, coordinating with all affected landowners and reviewing recommendations for changes to department rules regulating trapping permits.

1991 - assigned responsibility for issuing baiting permits on all state managed lands (previously assigned to Biologist II Eric Orff), including issuance of permits to bait wildlife on all state managed lands, coordinating with landowners for whom permits are issued, and reviewing and recommending changes to department rules regulating baiting.

1992 - assigned as chairperson of the team to oversee, department-wide planning.

In oral argument before the Board, Ms. Ahern stated that she was hired in 1987 as the "Computer Biologist" for the Wildlife Division at Fish and Game, with instructions to bring the department "into the computer age". She said that when she arrived in 1987 there were only 12 computers in the entire department, and that by 1993 the department has a full MIS department. She said that part of a Biologist's role is to collect data, and that computerization allows for better sorting and comparison of data to make projections for wildlife populations, and better assess how changing conditions affect that population.

The computerized Fish and Wildlife System collects information from universities as well as national and federal data bases, and can use that information for a variety of planning purposes. For instance, she said that when a landowner plans to clear cut a large portion of land, the computer model can predict which species will be harmed and which will benefit from the cut. She noted that until the system she designed and installed was in place, there was no way to cross reference the effects on the various species.

Ms. Ahern said that prior to 1989 when her supplemental job description was last revised, her position had no supervisory responsibilities, but that she now supervises a Biological Aide, as well as supervising from 5 - 7 "employees" whose services are paid by contract, in some cases through federal projects. She noted that the Director was correct in her analysis that this position does not reflect the typical duties of a field biologist, but that such a comparison should not

form the basis for rejecting her request for reclassification. She noted that in the Director's notice of decision, she had said that Ms. Ahern's "field" duties were consistent with the description for Biologist I, but noted that during certain seasons, everyone from the Chief Biologist to the Biological Aide positions perform work at the Biologist I level in the field.

Ms. Lamberton stated that the "Biologist" class series is a career path, not a career ladder. She said it was not unusual for employees to enter the series as a Biologist I and seek reclassification to Biologist II when they had reached the top of the grade as Biologists I. However, she said the creation of the career path was not intended to allow everyone to ultimately become a Biologist II by virtue of experience and longevity. Ms. Lamberton said that regardless of Ms. Ahern's personal abilities, the position itself is properly allocated at salary grade 20.

Ms. Lamberton stated that the Biologist I position to which Ms. Ahern is assigned only spends approximately 20% of work time in the field. She said that in spite of the Management Information Systems responsibilities of the position, it was left in the Biologist series because an employee in the position had to possess specialized knowledge in biology. She said that the position could have been reclassified to a Management Systems Analyst, salary grade 20, but that it was preferable to have a biologist rather than an MSA performing the work.

The Board compared the position specifications for Biologist I and Biologist II. The Board agrees that Ms. Ahern's field assignments are consistent with the classification of Biologist I as described in the "Basic Purpose" for the position. However, as the appellant and the Director agreed, only 20% of the time is spent in the field. The Board does not believe this should be the sole determining factor in arriving at an appropriate classification and salary grade allocation.

For the purposes of classification, the only differences between the positions of Biologist I and Biologist II are in the factors of Impact, Supervision and Communication. According to the Classification Standards in the Technical Assistance Manual, Impact is defined as follows:

"Impact" means the manner in which the basic purpose and job functions of a position interact with and respond to the overall needs of the agency. This factor measures the probability for and consequences of error in relation to the achievement of agency goals and objectives, including the responsibility for planning and developing agency programs, implementing

operational procedures, and providing services to specific client populations.

Ms. Ahern's position is currently allocated at the third level, which is described as follows:

Requires responsibility for contributing to immediate, ongoing agency objectives by facilitating the direct provision of services to the public or other state agencies. Errors at this level result in inaccurate reports or invalid test results and require a significant investment of time and resources to detect.

Ms. Ahern had suggested that her position would be more appropriately rated between the fourth and fifth levels for this factor. The classification plan does not provide for an allocation of points other than those assigned to the various levels. A position's responsibilities must meet all the criteria for assignment to a higher level. The fourth level for "Impact" is described as follows:

Requires responsibility for achieving direct service objectives by assessing agency service needs and making preliminary recommendations for the development of alternative short-term program policies or procedures. Errors at this level result in incomplete assessments or misleading recommendations causing a disruption of agency programs or policies.

The Board believes that this level is more descriptive of the appellant's described responsibilities than the third level which is currently assigned to the classification of Biologist I. In large part, that finding arises from the appellant's program responsibilities and the requirements that she coordinate the collection, retrieval and management of data affecting a variety of program applications throughout the department.

After reviewing the information submitted by both parties, the Board did not find that Ms. Ahern's supervisory responsibilities rise to the third level, which requires direct supervision of other employees doing work which is related or similar to the supervisor, including scheduling work, recommending leave, reviewing work for accuracy, performance appraisal, or interviewing applicants for position vacancies. In this area, the appellant's duties are not consistent with those assigned to the Biologist II classification.

For the factor "Communications", the appellant's position is currently allocated

at the fourth level which includes the following responsibilities:

Requires summarizing data, preparing reports, and making recommendations based on findings which contribute to solving problems and achieving work objectives. This level also requires presenting information for use by administrative-level managers in making decisions.

Ms. Ahern suggested that this factor would be more appropriately allocated at the fifth level, which is described as follows:

Requires reviewing summaries and reports and making management level decisions to solve problems or to achieve work objectives as well as articulating and expressing those solutions and goals. This level also requires formal presentations of solutions and goals to employees and the general public to increase the responsiveness of the agency toward the demands of its client system.

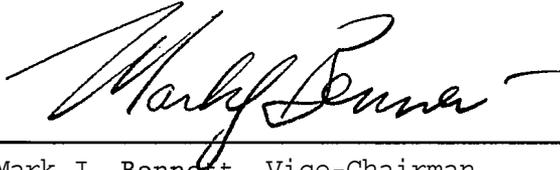
In spite of the appellant's involvement in rule-making and implementation of various Fish and Game Department programs, the Board did not find that her responsibilities rise to the level of "making management level decisions to solve problems or to achieve work objectives". The Board believes that the appellant's responsibilities are better described by the fourth level, which addresses her responsibilities for making recommendations based on findings which contribute to solving problems and achieving work objectives.

In consideration of the information presented by both parties, the Board found that the appellant's position is not correctly classified as a Biologist I, and in fact may not be best described by the Biologist classification, although the position clearly requires an incumbent with the training and experience of a biologist. The Board also found that upon a review of only those factors in dispute, the appellant's position is not properly allocated at salary grade 20. However, the Board did not find that the position should be reallocated to Biologist II, based on the differences in the factors of Supervision and Communication.

The Board found that the Director should make a correction to the appellant's classification which will address her responsibilities in the areas of Information Systems Management as well as biological data collection, reporting and program implementation. Although the additional points which would be generated by increasing the "Impact" factor would appear to indicate that the position should be reallocated to salary grade 21, the Board understands that

only three of the nine factors were addressed during the hearing and discussed in the context of this decision. Nonetheless, in a general sense, the Board believes that this position is improperly allocated at salary grade 20.

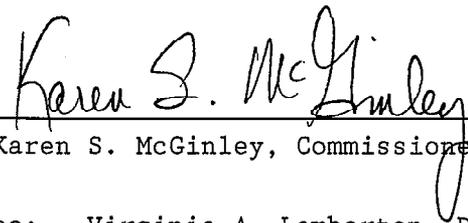
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Shirley Ahern, Wildlife Biologist, Department of Fish and Game
Donald Normandeau, Ph.D., Executive Director, Fish and Game Department