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State of New Hampshire

PERSONNEL APPEALS BOARD
State House Annex
Concord, New Hampshire 03301
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CHILD PROTECTIVE SERVICE WORKERS III
Division for Children and Youth Services

Appeal of Carol Baker et al. - Social Workers
Appeal of Minimum Qualifications

DOCKET K89-C-34

Response to Appellants' Request for Reconsideration

December 6, 1990

By letter dated November 5, 1990, SEA Field Representative Stephen McCormack filed a Motion for Reconsideration of the Board's October 26, 1990 decision on behalf of the above-named appellants. Those employees had appealed the minimum qualifications established for the position of Child Protective Service Worker III, arguing that the specification should allow an equivalency for education and experience.

In their Motion for Reconsideration, the appellants reiterated their original argument that all incumbents, whether classified as Child Protective Service Worker I, II or III are assigned similar case types and caseloads. The appellants also repeated their contention that incumbents in the Child Protective Service Worker series may ultimately report to a Supervisor III, IV or V, whose classifications provides an equivalency for education and experience.

In their original appeal, the appellants argued "...it would be anticipated that an employee with a Masters Degree will be able to perform the duties and responsibilities of a Child Protective Service Worker given less experience than an employee with a Bachelors Degree, [however,] it does not mean that an employee with a Bachelors Degree with numerous years of experience could not and would not perform the job requirements equally as well [as] the employee with a Masters Degree". (June 23, 1989 letter of appeal, para. 5)

As the Board noted in its October 26th order, the proposal for a DCYS Child Protective Service Worker career ladder called for increasing the salary grades for the subject positions so that those social workers previously paid at salary grades 13 and 15 would be reallocated to salary grade 17, Social Workers II and III would be reallocated from grades 17 and 18 to salary grade 19, and Social Workers III and Social Worker Consultants would be reallocated from salary grades 19 and 20 to salary grade 21. Prior to the reclassifications, an employee must have possessed a Master's degree in social work or social services in order to reach salary grade 19. In the proposed reclassification scheme, an employee could attain salary grade 19 without a Master's degree.

The Board had found that the review conducted by the Division of Personnel would support creation of three distinct levels of Child Protective Service Worker because those levels were intended to be at three distinct levels of complexity and independent functioning. The Board had also found that establishment of minimum qualifications without an equivalency for education and experience at the level of Child Protective Service Worker III was consistent with the existing qualifications for the various levels of Social Worker in State service.[1]

In their Motion for Reconsideration appellants further argue that CPSW III incumbents may be supervised by incumbents in the Supervisor class series who may not have a Master's Degree. This argument is without merit in that it is not at all unusual for administrators at any level to have lesser educational requirements, or education of a different type, than subordinates who may possess very specific technical expertise which requires the highest levels of education attainable within that field.

The appellants, in their Motion for Reconsideration, have offered no reason for the Board to find that its original decision was unreasonable or unlawful. Further, were the Board to find that a Master's degree is not necessary to perform at the level of Child Protective Service Worker III, there would be no reason to establish that classification at salary grade 21, and would be inclined to reduce that classification accordingly to be consistent with the Child Protective Service Worker II classification and salary grade.

1/ The specifications for Social Worker III and Social Worker Consultant provide no equivalencies for education and experience.

The Board affirms its decision of October 26, 1990, finding no substantive basis for reconsideration of that decision. The Board found that the assignment of similar case types and caseloads to the various levels of Child Protective Service Workers is not as much a question of appropriate classification as it is an issue of supervisory assignment and management practice in the various district offices.

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas

Mark J. Bennett

Robert J. Johnson

cc: Stephen J. McCormack, SEA Field Representative
Virginia A. Vogel, Director of Personnel
Effie Malley, Director, Division for Children and Youth Services
Attorney General's Office, Civil Bureau

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CHILD PROTECTIVE SERVICE WORKERS III
Division for Children and Youth Services

Appeal of Carol Baker et al. - Social Workers
Appeal of Minimum Qualifications

DOCKET #89-C-34

October 26, 1990

The New Hampshire Personnel Appeals Board (McNicholas, Johnson and Rule) met Wednesday, April 18, 1990, to hear the appeal of Carol Baker, et al., employees in the Division for Children and Youth Services who are appealing the minimum qualifications established for the position of Child Protective Service Worker III. SEA Field Representative Stephen McCormack appeared on behalf of the appellants. Personnel Director Virginia Vogel represented the Division of Personnel. Also testifying were Helen Partridge, Bernard Bluhm, Angel Parker and Darlene Connor.

Appellants argued that all employees reclassified to positions in the Child Protective Service Worker class series are responsible for the same variety of duty assignments, the same degree of complexity in the cases they handle, and the same size caseloads. Appellants argue "...it would be anticipated that an employee with a Masters Degree will be able to perform the duties and responsibilities of a Child Protective Service Worker given less experience than an employee with a Bachelors Degree, [however,] it does not mean that an employee with a Bachelors Degree with numerous years of experience could not and would not perform the job requirements equally as well [as] the employee with a Masters Degree". (June 23, 1989 letter of appeal, para. 5)

In her testimony, Ms. Partridge argued that the work performed by Child protective Service Workers is unique in the field of social work. She argued that in the field of child protection, experience will prove to be more valuable than additional formal education. When asked whether or not all Child Protective Service Workers were expected to perform at the same level, she responded that they were.

Bernard Bluhm testified that everyone performing Child Protective Service work in the District Office to which he is assigned is given the same level of responsibility, and is expected to carry the same case load. Bluhm further testified that prior to the creation of the new class series, he was classified as a Social Worker III rather than a Social Worker II based on his level of experience and the graduate credits he had earned.

Virginia Vogel, testifying on behalf of the Division of Personnel described the events which lead up to the reclassification of certain Social Worker positions in DCYS to Child Protective Service Workers. She stated that in early 1989, Angel Parker (Administrator of the Bureau of Children, Division for Children and Youth Services) had discussed with Vogel the reorganization of EYS, with specific attention to the Bureau of Children. In December, 1989, Director of DCYS Effie Malley forwarded to the Division of Personnel a proposal for the creation of a career ladder for Social Workers in EYS. The Director later concurred with Ms. Malley in finding that the role of Social Workers in the arena of Child Protective Services, had expanded sufficiently beyond the usual role of social work to warrant the creation of a new class series. Ms. Vogel testified that her Division's reviewed classification questionnaires submitted by incumbents in the Bureau for Children, and that such review supported the DCYS position that three distinctly different levels of complexity existed in the duty assignments, therefore supporting the establishment of three levels in the class series of Child Protective Service Worker.

In her December 12, 1988 letter to the Director of Personnel, DCYS Director Effie Malley proposed establishing a new class series in the Division for Children and Youth Services, suggesting that positions of Social Worker Trainee and Social Worker I be reclassified as child Protective Service Worker I, Social Worker II positions be reclassified to Child Protective Service Worker II, and Social Worker III and Social Worker Consultant positions be reclassified as Child Protective Service Workers III. The DCYS proposal also called for increasing the salary grades for the subject positions so that those social workers previously paid at salary grades 13 and 15 would be reallocated to salary grade 17, Social Workers II and III would be reallocated from grades 17 and 18 to salary grade 19, and Social Workers III and Social Worker Consultants would be reallocated from salary grades 19 and 20 to salary grade 21. Prior to the reclassifications, an employee must have possessed a Master's degree in social work or social services in order to reach salary grade 19. In the proposed reclassification scheme, an employee could attain salary grade 19 without a Master's degree.

Prior to the reclassification decision, all Social Workers had been allocated at levels of Social Worker Trainee (grade 13), Social Worker I (grade 15), Social Worker II (grade 17), Social Worker III (grade 18) and Social Worker Consultant (grade 19). In order to reach the Social Worker III level (salary grade 18), employees needed to possess a Bachelor's degree, plus an additional

twelve hours of graduate study in any of the behavioral sciences. To reach the level of Social Worker Consultant (salary grade 19), employees were required to possess a Master's degree from a college accredited by the Council on Social Work Education with a major study in social work or social services. The job specifications for the aforementioned positions in the Social worker class series do not provide for any equivalencies in the minimum qualifications for education and experience.

In April, 1989, Ms. Malley wrote to Director Vogel asking for "...reconsideration of the qualification for Child Protective Service Worker III requiring a masters degree from an institution accredited by the Council on Social Worker Education. There are no qualifying degree programs in New Hampshire, Maine or Vermont. We request that the educational requirements be changed to a masters degree in social work, counseling, human services or a related field". That request was granted, and the opportunity to attain a position of Child Protective Service Worker III was simultaneously broadened by the inclusion of other specialty fields in the Master's degree qualification, and elimination of the accreditation standard previously demanded.

Angel Parker, in direct testimony and upon cross-examination, argued that the Division for Children and Youth Services is required to provide "on--demand" services, Particularly in offices with small staffs, the sharing of some responsibilities is inevitable. When an allegation of child abuse or neglect is reported to the local district offices, the case must be assigned to an available Child protective Service Worker, regardless of the employee's level of education and/or experience. She testified that although employees at the various levels might be assigned the same types of cases, employees at the level of Child Protective Service Worker III, possessing a Master's degree in one of the required fields, should be able to handle the case more effectively and with significantly less supervision. With regard to Appellants' contention that the established minimum qualifications should allow for an equivalency between formal education and experience, Ms. Parker testified that "experience is not always the best teacher". She indicated that the accepted belief in the profession of social work and child protective services is that possession of a Master's degree in an appropriate field should enhance the quality of case management services and coordination, provide knowledge in the fields of children and families, increase the understanding of the dynamics of children in crisis, and assure a broader understanding of the existing data in a rapidly changing field of social/protective service work.

The structure envisioned by the creation of the Protective Service Worker class series would allow for the assignment of more difficult cases to better trained, more experienced staff. Ms. Parker also argued that if experience were the only "teacher" needed, there would probably be no Master's level programs offered. A Master's level program, she contended, provides a level of formal training independent of experience which cannot be replaced by experience alone.

In consideration of the evidence and testimony presented, the Board found that the review conducted by the Division of Personnel did support a decision that the work assignments of Child protective Service Workers were intended to be at three distinct levels of complexity and independent functioning. The Board also found that the testimony of Ms. Parker and Ms. Vogel supported establishment of minimum qualifications without an equivalency for education and experience at the level of Child Protective Service Worker III. This conclusion is further supported by the existing qualifications for the various levels of Social Worker in State service, and the absence of equivalencies in the specifications for Social Worker III and Social Worker Consultant.

The Board found that the assignment of similar case types and caseloads to the various levels of Child Protective Service Workers is not as much a question of appropriate classification as it is an issue of supervisory assignment and management practice in the various district offices.

The Board declined to rule on the Division of Personnel's requests for findings of fact, determining that they are better considered a written expansion of the sworn testimony offered by the Director. The Board granted the Division's proposed Rulings of Law:

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas, Chairman

Robert J. Johnson

Lisa A. Rule

cc: Stephen J. McCormack, SEA Field Representative
Virginia A. Vogel, Director of Personnel
Effie Malley, Director, Division for Children and Youth Services
Attorney General's Office, Civil Bureau

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APPEAL OF CAROL BAKER ET AL
Social Workers - Division for Children and Youth Services
Docket #89-C-34

June 22, 1989

By letter dated June 5, 1989, SEA Field Representative Stephen J. McCormack filed on behalf of Carol Baker, Helen Partridge, John Dawson, Nancy Spearman, Robin Jurta, Pauline Chabot, Bernard Bluhm, and other similarly affected employees, an appeal of "a classification (approval) decision by Virginia A. Vogel, Director of Personnel, dated May 23, 1989."

Appellants' request for hearing contends that "the educational requirement to become a Child Protective Service Worker III is unreasonable and does not address equal pay for equal work" and that "to exclude employees from ever becoming a Child Protective Service Worker III, unless they have a Master's Degree, regardless of the number of years of experience, is unreasonable, possibly discriminatory, and does not address equal pay for equal work."

Appellants argue that the appeal "is not solely a matter of classification. It is the intention of the State Employees' Association to consider an appeal with the Human Rights Commission. ...there is a question that arises as to proper jurisdiction for some of the issues in this matter."

Appellants requested:

(1) That the Board render a decision on the issue of jurisdiction;

(2) That the Board temporarily waive Per-A 208.02, relieving Appellants of the requirement for submission of written arguments concerning all aspects of the appeal within twenty days of initial filing of the appeal; and

(3) That equal pay for equal work is an issue over which the Board has jurisdiction.

The Board, Commissioners McNicholas, Cushman and Scott, considered the June 5, 1989 request at its meeting of June 21, 1989. The Board ruled as follows:

(1) The Board's jurisdiction in this matter is outlined in Per 102.01(f): "That discrimination against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action, because of political or religious opinions or affiliations or because of age, sex, race, color, marital status, handicap, national origin or any other non-merit factors will be prohibited. Any person has the right of appeal to the personnel [appeals board] in any case of such alleged discrimination." Appellants must, however, elect to pursue any appeal based upon alleged discrimination with either the Appeals Board or the Human Rights Commission. The Board will not entertain a joint appeal.

(2) The State Employees' Association, as representative of Appellants, shall provide the Board with a list of all "other similarly affected employees" before a hearing will be granted.

(3) The Board will grant Appellants twenty (20) calendar days from the date of this order to file any and all evidence, documents or affidavits which they believe support their position, along'with written arguments which cover all aspects of the appeal.

FOR THE PERSONNEL APPEALS BOARD

Mary Ann Steele

Mary Ann Steele, Executive Secretary
personnel Appeals Board

cc: Stephen J. McCormack
SEA Field Representative

Virginia A. Vogel
Director of Personnel

Effie Malley, Director
Division for Children and Youth Services