

State of New Hampshire



PERSONNEL APPEALS BOARD

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APPEAL OF SCOTT BIENVENUE

Docket #2007-C-001

New Hampshire Community Technical College System

November 15, 2007

The New Hampshire Personnel Appeals Board (Bonafide, Johnson and Casey) met in public session on Wednesday, June 13, 2007, under the authority of RSA 21-I:57 and Chapters Per-A 100-200 of the NH Code of Administrative Rules, to hear the appeal of Scott Bienvenue, an employee of the NH Community Technical College System. Mr. Bienvenue, who was represented at the hearing by SEA Field Representative Jean Chellis, was appealing the Division of Personnel's June 2, 2006 decision to reclassify his position from Plant Maintenance Engineer I, salary grade 17, to Plant Maintenance Engineer II, salary grade 19. Mr. Bienvenue had requested reclassification to Plant Maintenance Engineer IV, salary grade 23. On appeal, however, he suggested that the Board consider reclassifying his position instead to Plant Maintenance Engineer III, salary grade 21. A. Robert Ahlgren, Classification and Compensation Administrator for the Division of Personnel, and Karen Hutchins, Director of Personnel, appeared on behalf of the Division of Personnel.

In his original pleadings, the appellant argued that the Division of Personnel failed to acknowledge that the "basic purpose, characteristic duties, and distinguishing factors" for his position classification were sufficiently similar to those of a Plant Maintenance Engineer III to warrant reclassification. He argued that "organizational inconsistencies" between campuses should not have been the primary focus for classifying his position at the level of Plant Maintenance Engineer II, and that specific job functions may have been

overlooked or dismissed. He also argued that neither he nor his supervisor were asked for input, nor were they given an opportunity to review the classification decision before it was issued.

Mr. Ahlgren stated that when the Division conducted its review of the appellant's position, it determined that there had been changes in the duties and responsibilities sufficient to warrant reallocation from Plant Maintenance Engineer I to Plant Maintenance Engineer II, but that the changes were not sufficient to warrant reclassification to Plant Maintenance Engineer III or IV. Mr. Ahlgren argued that "organizational inconsistencies" are a necessary part of the review process, and from an organizational perspective, it did not make sense to classify the appellant's position at the level of Plant Maintenance Engineer III when he does not supervise any other employees in that class series. He compared that position with the position of Plant Maintenance Engineer III at the NH Technical Institute, where the operation is substantially larger, and one of the subordinate employees is classified as a Plant Maintenance Engineer I.

In accordance with Per-A 207.02 (b)(1), the Board heard the appeal on offers of proof by the representatives of the parties. The record of the hearing in this matter consists of the audiotape recording of the hearing on the merits of the appeal, notices and orders issued by the Board, pleadings submitted by the parties, and documents admitted into evidence as follows:

State's Exhibits

- A. Current and Proposed Organizational Chart, NH Community Technical College, Nashua
- B. February 3, 2006 letter from Sara Sawyer to Scott Bienvenue
- C. Supplemental Job Description – position #13721, Plant Maintenance Engineer I
- D. Proposed Supplemental Job Description, Plant Maintenance Engineer IV

Appellant's Exhibits

1. November 22,2006 Appeal to the Director, decision date: November 14,2006 with attachments:
 - a. Undated letter from Scott Bienvenue to Director Karen Levchuk
 - b. June 2,2006 letter from A. Robert Ahlgren to Sara Sawyer
 - c. November 14,2006 letter from Director Karen Levchuk to Scott Bienvenue
 - d. Supplemental Job Description for William Saunders, Plant Maintenance Engineer III
 - e. Proposed Supplemental Job Description for Plant Maintenance Engineer II, position #13721
 - f. February 3,2006 letter from Sara Sawyer to Scott Bienvenue
 - g. Position Classification Questionnaire with attached Supplemental Job Description and Organizational Chart for position #13721
2. Class Specification for Plant Maintenance Engineer II
3. Class Specification for Plant Maintenance Engineer IV
4. Class Specification for Plant Maintenance Engineer III
5. Evaluation Worksheet comparing positions of PME II and PME III

Technical Assistance Manual

During the course of the hearing, both parties referred to the evaluation factors, point levels and definitions as they appear in the Division of Personnel's Technical Assistance Manual, Classification Chapter. Although neither party offered the manual as an exhibit, the Board did refer to the Technical Assistance Manual published by the Division of Personnel in July 2000, during its deliberations and decision-making.

Comparison of Point Factor Ratings, Plant Maintenance Engineer I, II and III

Evaluation Factor	Plant Maintenance Engineer I	Plant Maintenance Engineer II	Plant Maintenance Engineer III
Skill	3	3	4
Knowledge	3	3	3
Impact	2	2	3
Supervision/Management	3	3	4
Working Conditions	3	3	3
Physical Demands	3	3	3
Communications	3	3	3
Complexity	3	4	4
Independent Action	4	4	4
Total Points	295	325	380
Salary Grade	17	19	21

Standard of Review

Per-A 207.12 (f), NH Code of Administrative Rules (Rules of the Personnel Appeals Board)

(f) In appeals of a position reclassification or reallocation, the board shall determine if the appellant proves by a preponderance of the evidence that:

- (1) The duties of the position have changed sufficiently to warrant reclassification or reallocation; or
- (2) The position was improperly allocated or classified in accordance with the director's rules or the classification plan.

Having carefully considered the parties' evidence, arguments and offers of proof, the Board made the following findings of fact and rulings of law:

Findings of Fact

1. The position classification scheme utilized by the Division of Personnel includes nine evaluation factors including Skill, Knowledge, Impact, Supervision/Management, Working Conditions, Physical Demands, Communication, Complexity, and Independent Action. Each factor is rated from level one to level six, and each level has an assigned point value. After reviewing a position and allocating each of the factors for that particular position, the point total translates to a salary grade assigned to the position.
2. When the Division of Personnel decided to reclassify the appellant's position from PME I to PME II, it did so by increasing the "Complexity" factor from level three to level four. The positions of PME II and PME III are both rated at level four for "Complexity."
3. Reclassifying the appellant's position from PME II to PME III also would require evidence that the position is currently under-rated in the factors of "Skill," "Impact," and "Supervision/Management."
4. Position reclassification and position allocation involve a review of a position, not an assessment of the position incumbent's qualifications, experience or job performance. In determining the qualifications necessary for a position, the review analyzes the minimum education and experience, and the required skill sets that would be necessary for a person newly appointed to a position to perform satisfactorily after completing a probationary period.
5. According to the Technical Assistance Manual, "Skill represents the job training and specific vocational preparation necessary to perform specific job functions. The Skill factor measures the usual amount of time spent by the average worker in acquiring information, learning job techniques, and developing the facility for acceptable performance in a specific job, occupation, or field of work. Based on the above definition, job training time and specific vocational preparation roughly correspond to the six levels of the Skill factor."
6. The appellant's position is currently rated at level three for "Skill," which equates to roughly two to four years of experience. Level four requires three to six years of

experience. Although the appellant indicates that level four would be more appropriate, he offered insufficient evidence to persuade the Board that an increase in this factor is warranted, or that an applicant for the position would be unable to perform satisfactorily with two to four years of experience.

7. According to the Division of Personnel's Technical Assistance Manual, "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 any 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." Reclassification of the appellant's position to Plant Maintenance Engineer III would require a one-level increase in the "Impact" factor from level three to level four.
8. Although levels three and four are similar, the Technical Assistance Manual describes level four as requiring "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..." while level three involves "...responsibility for contributing to immediate, ongoing agency objectives by facilitating the direct provision of services to the public or other state agencies." "Errors at [level three] result in inaccurate reports or invalid test results and require a significant investment of time and resources to detect." "Errors [at level four] result in incomplete assessments or misleading recommendations causing a disruption of agency programs or policies."
9. On the evidence and argument offered by the parties, the Board found that the appellant's responsibilities are more consistent with level three for Impact. In the position classification questionnaire completed by the appellant (Appellant's Exhibit 1-g, questions 8, 9 and 12), the appellant describes responsibility for contributing to immediate, ongoing agency objectives and facilitating the direct provision of services. The Board found that his responsibilities as he described them did not rise to level four for "Impact."

10. "Supervision/Management" is described by the Technical Assistance Manual as "...training, guiding, and directing the efforts of state employees, as well as managing the functional activities of an organizational unit. This factor measures organizing, planning and scheduling the work of subordinates, including the responsibility for performance appraisal, in order to achieve organizational goals."
11. Allocation at level four for "Supervision/Management" requires "...direct supervision of programs or of employees doing work which differs from the supervisor..." With the exception of a temporary part-time security officer, the appellant supervises maintenance personnel who are performing work similar to his own, so his position would be more accurately described by level 3 for this factor.
12. If the appellant's supervisory and managerial responsibilities did support allocation at level four, that would increase the total point allocation for the position from 325 to 350, and would not result in an increase in the salary grade.
13. Although the basic purposes and scope of the appellant's position are similar to those of a Plant Maintenance Engineer III, the duties and responsibilities assigned to the appellant's position do not rise to the level of a Plant Maintenance Engineer III.
14. Although "organizational inconsistencies" should not be the primary focus for a position classification decision, the Division of Personnel is required to compare a position under review to similar positions within the agency and throughout the classified system. It made such comparisons and determined that the appellant's position could be reclassified from Plant Maintenance Engineer I to Plant Maintenance Engineer II. The appellant did not provide evidence that his position was sufficiently similar to Plant Maintenance Engineer III positions elsewhere in the classified system to warrant reclassification to that level.
15. The Board did not find that the Division's review overlooked or dismissed specific job functions, as the appellant alleged, but that the appellant offered insufficient evidence that the functions as described warranted reallocation of the various evaluation factors.
16. Neither the personnel rules nor the statute impose any requirement upon the Division of Personnel to consult with an employee or an agency to review a classification decision before that decision is issued.

Rulings of Law

- A. RSA 21-I:42, II imposes upon the Director of Personnel responsibility for "Preparing, maintaining and periodically revising a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same classification..."
- B. Disputes concerning the proper allocation or classification of a position are subject to review by the Personnel Appeals Board under the provisions of RSA 21-I:57: "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."

Decision and Order

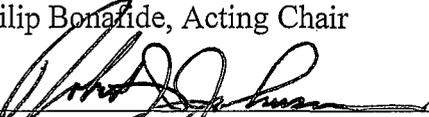
Having carefully considered the evidence, argument and offers of proof by the representatives of the parties, the Board found that the appellant provided insufficient evidence to support the reallocation of his position from Plant Maintenance Engineer I (salary grade 17) to Plant Maintenance Engineer III (salary grade 21) or Plant Maintenance Engineer IV (salary grade 24).

The evidence supports the Division's decision to reallocate the factor of "Complexity" as well as its decision to deny requests to reallocate any of the other evaluation factors based on the position as it compares to other positions in the classified system.

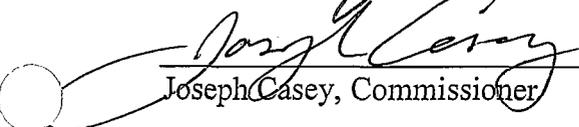
Accordingly, the Board voted unanimously to DENY the appeal, finding that the appellant's position is properly classified as Plant Maintenance Engineer II (salary grade 19).

THE PERSONNEL APPEALS BOARD

Philip Bonafide, Acting Chair



Robert Johnson, Commissioner



Joseph Casey, Commissioner

cc: Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301
Jean Chellis, SEA Field Representative, PO Box 3303, Concord, NH 03302-3303
Sara Sawyer, Director of Human Resources, Community College System of NH,
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