

State of New Hampshire



PERSONNEL APPEALS BOARD
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APPEAL OF CONSERVATION OFFICERS I

NH Fish and Game Department

Docket #01-C-3

July 30, 2001

The New Hampshire Personnel Appeals Board (Wood, Johnson, and Rule) met on Wednesday, May 9, 2001, under the authority of RSA 21-I:57 and Chapters Per-A 100-200 of the NH Code of Administrative Rules (Rules of the Personnel Appeals Board) to hear the classification appeal of Conservation Officers I. Conservation Officer Sergeant Douglas Gralensli and Conservation Officer I John Wimsatt, President and Vice-President of the Conservation Officer Relief Association, appeared on behalf of the appellants. Thomas Manning, Director of Personnel, and A. Robert Ahlgren, Classification Supervisor, appeared on behalf of the Division of Personnel.

The record of the hearing in this matter consists of pleadings submitted by the parties prior to the hearing, notices and orders issued by the Board, the audio-tape recording of the hearing on the merits of the appeal, and documents admitted into evidence as follows, and as described by the parties in their letters to the Board dated March 23, 2001 and April 12, 2001, respectively:

Appellants' Exhibits:

1. Written arguments covering all aspects of the appeal for Conservation Officer I
2. The current Class Specification for the position of Conservation Officer I
3. The proposed Class Specification for the position of Conservation Officer I
4. Evidence supporting the proposed allocation of each of the class evaluation factors listed in the classification plan described by RSA 21-I:42, as well as:

- All documents that had been submitted with the original request for reallocation of the positions, including:
 - (1) Letter to Director Manning from Colonel Ronald Alie
 - (2) Law Enforcement Division Organizational Chart
 - (3) Title 15 Chapter 188F Physical Standards
 - (4) Current (prior to allocation request) Supplemental Job Description for Conservation Officer I positions
 - (5) Proposed Supplemental Job Descriptions for Conservation Officer I positions
 - (6) Part III of the Classification Questionnaire
 - (7) Part IV of the Classification Questionnaire
 - (8) A representative questionnaire for the Conservation Officer position (CO John B. Wimsatt)
- Decision letter from A. Robert Ahlgren dated December 7, 2000
- Request for Reconsideration of the Personnel Director's Decision dated December 21, 2000
- Search and Rescue Standard Operating Procedure
- Policy on Search and Rescue Volunteers
- Fish and Game Form 131-A (Volunteer Sign-up Form)
- Title 18 RSA 206:27-a
- Title 23 RSA 281-A:2 VII (a)(5)
- Policy on Deputy Conservation Officers
- Memorandum from Col. Alie dated January 4, 2001
- Decision on Reconsideration of Personnel Director's Decision dated February 19, 2001

State's Exhibits

- A. Letter dated January 13, 2000 from Colonel Ron Alie
- B. Responses to questions about supervisory responsibilities submitted by the appellants on questionnaires included in the original reclassification package
- C. Response from the agency to Part III of the Questionnaire

- D. Approved Group Supplemental Job Descriptions for each classification involved in Conservation Officer class series review
- E. Decision letter of December 7, 2000 addressed to Colonel Ron Alie
- F. Reconsideration request letter to Director Manning
- G. Reconsideration decision letter from Director Manning to the President of the Conservation Officer Relief Association
- H. Conservation Officer I Class Specification in effect at the time of the reclassification request
- I. Updated Conservation Officer I Class Specification
- J. Class Specification for State Police Trooper I
- K. Organizational Chart for the Fish and Game Department's Law Enforcement Division
- L. Letter of appeal dated March 7, 2001
- M. Preview and new point factors for Conservation Officer I plus point factors requested by the Conservation Officers themselves

The appellants argued that after reviewing the classification of Conservation Officer I, the Division of Personnel made an appropriate correction to the level and the number of points assigned to the evaluation factor of "Knowledge," but that it erred in reducing the level and the number of points assigned to the evaluation factor of "Supervision." The appellants argued that they are assigned from time to time to provide direct supervision to Deputy Conservation Officers and Conservation Officer Trainees, and that they supervise volunteers during search and rescue missions. As a result, they argued, their supervisory responsibilities had actually increased since the positions were last reviewed in 1984, and the Division of Personnel had offered no explanation for its decision to reduce the points assigned to that factor.

Mr. Ahlgren indicated that he was not employed by the Division of Personnel in 1984 when the positions were last reviewed, so he was unable to explain why the classification of Conservation Officer I had been rated at level 2 for "Supervision" prior to the classification decision currently

under appeal. He suggested that while there may have been a reason for assigning the positions at level 2 for "Supervision" at that time, that assignment also might simply have been a mistake.

Mr. Ahlgren argued that the information supplied by the current incumbents would not support the assignment of any points for supervision. He said that in completing their classification questionnaires, the appellants all indicated that they exercise no direct supervision over other employees or programs. That fact, he said, was later confirmed when the department's Business Administrator described the scope of the officers' duties without ever using the word "supervision." Mr. Ahlgren argued that for purposes of comparison, the classification of State Trooper is perhaps closest to that of Conservation Officer I, and Troopers receive no points for "Supervision."

Mr. Manning suggested that the difference in the terminology used to define "supervision" was probably at the heart of the dispute. He argued that having authority over someone is very different from having responsibility to supervise someone. He noted that while Conservation Officers have authority over volunteers and deputies, and may be responsible for directing the activities of volunteers during search and rescue operations, the officers do not have a level of responsibility for supervising or evaluating the work of others that would warrant allocation of the "Supervision" factor at level 2.

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

Findings of Fact

1. On January 13, 2000, the Fish and Game Department submitted a request to the Director of Personnel to review Conservation Officer I, Conservation Officer II, Conservation Officer Sergeant and Conservation Officer Lieutenant positions.

2. In support of proposed upgrades, the appellants requested an increase in the following evaluation factors: Skill, Knowledge, Physical Demands, and Complexity.
3. Representatives of each classification were interviewed by a Classification Analyst in May and June, 2000.
4. Although Fish and Game representatives were prepared to discuss what they believed to be the appropriate allocation for each of the nine classification evaluation factors, the Personnel Analyst conducting the reviews advised the appellants that they only needed to address those factors for which they had requested a change.
5. On December 7, 2000, the Division of Personnel issued its decision, approving an increase of one salary grade for the positions of Conservation Officer II, Conservation Officer Sergeant, and Conservation Officer Lieutenant.
6. In its December 7, 2000, decision, the Division denied the request to upgrade positions of Conservation Officer I, rejecting the appellants' request to increase the levels assigned to the factors of "Skill," "Physical Demands," and "Complexity."
7. The Division of Personnel amended the minimum educational qualifications for the classification to make them consistent with those assigned to the classification of Conservation Officer Trainee and increased the "Knowledge" factor by one level to compensate for that change. The Division also decreased the "Supervision" factor to level 1.
8. The Division of Personnel considers the State Trooper classification to be most similar to that of Conservation Officer.
9. According to the Classification Chapter of the Technical Assistance Manual published by the Division of Personnel in July, 2000, "Skill represents the job training time and specific vocational preparation necessary to perform specific job functions."
10. Conservation Officer I and Trooper I positions both require certification as a police officer and satisfactory completion of one year as a trainee.
11. Troopers, however, are rated one level higher than Conservation Officers for the "Skill" factor.
12. Troopers have no supervisory responsibilities listed on their class specification, and their positions are rated at level 1 for the "Supervision" factor.

13. In its decision reducing the level and the number of points assigned to the "Supervision" factor for the Conservation Officer classification, the Division of Personnel indicated that the appellants have no supervisory responsibilities.
14. When Conservation Officer I positions were reviewed in 1984, there was no adjustment to the "Supervision" factor, and it continued to be rated at level 2 as it had been prior to the review.
15. There was no request from the appellants for adjustment of the level assigned to the "Supervision" factor, nor was there any discussion reported between the Division of Personnel and the Department of Fish and Game during the classification review process about reducing the allocation of that factor.
16. The Group Supplemental Job Description that was developed by the Division of Personnel in consultation with the Department of Fish and Game and approved by the Director of Personnel as part of the review process includes the following accountability: "Exercises direct supervision of Conservation Officer Trainees and Deputy Conservation Officers as required or as a specially trained Field Training Officer."
17. Despite the supervisory responsibilities detailed in the approved Supplemental Job Description, the Division of Personnel reduced the allocation of the "Supervision" factor from the second to the first level, asserting that, "The amount of supervision exercised by a Conservation Officer, even with the Deputy Conservation Officer classification factored into the decision, does not support level 2, which requires partial supervision of other employees doing work which is related or similar to the supervisor" [State's Exhibit E].
18. The classifications of Marine Patrol Officer, Corrections Officer, Security Officer, Biological Aide, Biologist I, Fire Inspector, Park Manager I, Probation-Parole Officer I, Railroad Inspector/Investigator, Field Representative I (Emergency Management), and Liquor Commission Examiner I, identified in the appellants' submissions for purposes of comparison, have no supervisory responsibilities listed on their class specifications, but their positions are rated at level 2 for the "Supervision" factor.

Rulings of Law

- A. "The director shall establish a formal written class specification covering each position in the classified system. The purpose of the class specification shall be to identify the job functions, distinguishing factors, examination requirements, and the minimum qualifications which apply to all positions in the same class." [Per 301.02 (a)]
- B. "The duties and work assignments for each position in the state classified service shall be defined by a supplemental job description established by this rule." [Per 301.03 (a)]
- C. The supplemental job description shall be developed and updated by the appointing authority or the supervisor assigned by the appointing authority to oversee the work assignments of the position." [Per 301.03 (b)]
- D. "Any work assignment which affects more than 10 percent of the total working time of the position shall be listed on the description by the appointing authority, designated supervisor or the employee of the position in accordance with this rule." [Per 301.03 (c)]
- E. An employee's supplemental job description must include, "A statement of the scope of work for the position, which shall be related to the basic purpose section of the class specification and shall specify how the broad purpose of the specification translates into a specific role within the goals and objectives of the agency." [Per 303.03 (d) (6)]
- F. "Allocation Review. – 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." [RSA 21-I:57]

Standard of Review

"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" [Per-A 206.12 (f)].

Decision and Order

On all the evidence, the Board found that the Division of Personnel's decision to reduce the allocation for the "Supervision" factor was unsupported by the evidence and inconsistent with the Director's rules and the classification plan.

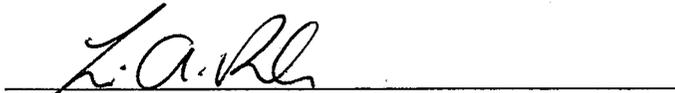
Mr. Ahlgren and Mr. Manning both identified the Trooper I classification as being most similar to that of Conservation Officer. Except for the "Skill" factor, Trooper I and Conservation Officer I positions now have identical ratings for each of the nine evaluation factors. According to the Classification Chapter of the Technical Assistance Manual published by the Division of Personnel in July, 2000, "Skill represents the job training time and specific vocational preparation necessary to perform specific job functions." Although Conservation Officer I and Trooper I positions both require certification as a police officer and satisfactory completion of one year as a trainee, the Division of Personnel has rated Troopers one level higher than Conservation Officers for the "Skill" factor. By comparison, although the evidence reflects that Conservation Officers have a level of supervisory responsibility that is greater than that of Troopers, the Division of Personnel has assigned Conservation Officers a rating for the "Supervision" factor consistent with the rating for Troopers.

The request to reclassify Conservation Officer positions cited changes to the duties and responsibilities of the positions since the last review in 1984, and disparities between the salaries paid to Conservation Officers and State Police Officers as the primary reasons for requesting review and reallocation. Having considered the evidence, argument, and offers of proof, the Board found that the appellants' duties have changed since 1984, particularly with the addition of Deputy Conservation Officers to the work force, and that those changes support a continued allocation of the "Supervision" factor at level 2.

Therefore, under the authority of RSA 21-I:57 and the Rules of the Personnel Appeals Board, the Board voted unanimously to GRANT the appeal.

THE PERSONNEL APPEALS BOARD


Patrick H. Wood, Chair


Lisa A. Rule, Commissioner


Robert J. Johnson, Commissioner

cc: Thomas F. Manning, Director of Personnel, 25 Capitol St., Concord, NH 03301
Sgt. Douglas Gralenski, CORA, c/o NH Fish and Game Department, Hazen Dr.,
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