

State of New Hampshire



PERSONNEL APPEALS BOARD

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

APPEAL OF JOANNE G. DUFORT

Docket #97-C-4

NH Pari-Mutuel Commission

Response to Appellant's Request for Reconsideration

October 3, 1997

The New Hampshire Personnel Appeals Board (Bennett and Johnson) met on Wednesday, September 3, 1997, under the authority of RSA 21-I:57, to consider JoAnne G. Dufort's request for reconsideration of the Board's June 11, 1997, decision denying her appeal of the Director's refusal to reclassify her' position from Laboratory Scientist IV, salary grade 24, to Laboratory Scientist V, salary grade 26.

Having reviewed that request in conjunction with the Board's decision in this matter, the Board voted to deny the request. In so doing, the Board affirmed its earlier decision that on the evidence, argument and offers of proof, the appellant failed to sustain her burden of proving that her position is **incorrectly** classified as a Laboratory Scientist IV and should be reclassified to Laboratory Scientist V.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD

Handwritten signature of Mark J. Bennett in cursive.

Mark J. Bennett, Chairman

Handwritten signature of Robert J. Johnson in cursive.

Robert J. Johnson, Commissioner

cc: Virginia A. Lamberton, Director of Personnel, 25 Capitol St., Concord, NH 03301
State Employees' Association, PO Box 3303, Concord, NH 03302-3303
Paul Kelly, Director, NH Pari-Mutuel Commission
244 North Main Street, Concord, NH 03301-5041

State of New Hampshire



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

APPEAL OF JOANNE G. DUFORT

Docket #97-C-4

NH Pari-Mutuel Commission

June 11, 1997

The New Hampshire Personnel Appeals Board (Bennett and Johnson) met on Wednesday, April 30, 1997, under the authority of RSA 21-I:57, to hear the appeal of JoAnne G. Dufort, an employee of the NH Pari-Mutuel Commission.. Ms. Dufort, who was represented at the hearing by SEA Field Representative Margo Steeves, was appealing the Division of Personnel's decision denying her request for reclassification from Laboratory Scientist IV, salary grade 24, to Laboratory Scientist V, salary grade 26. Michael McAulay, Supervisor of Classifications, appeared on behalf of the Division of Personnel.

The appeal was made on offers of proof by the representatives of the parties. The record in this matter consists of the audio tape recording of the hearing, documents submitted by the parties prior to the hearing, notices and orders issued by the Board, and any pleadings and exhibits offered by the parties at the hearing.

In her written submission, Ms. Steeves argued the classifications of Laboratory Scientist IV and V are very similar. "The difference," she wrote, "is in the range of the duties and their consequences." She also stated that with the exception of "Communication" and "Independent Action," the class specifications are similar. Ms. Steeves argued that all State labs are housed in the Health and Human Services building, and that the other labs are headed by a Laboratory Scientist V.

Ms. Steeves characterized the reclassification request as a "management request." In that respect, she noted that while the Laboratory Scientist V classification requires applicants to possess a Masters Degree, the appellant's supervisor indicated on the Classification Questionnaire that a Master's degree was not required to manage the Pari-Mutuel lab, provided that the incumbent possessed a Bachelor's degree with a major in chemistry, and eight years experience in an analytical testing lab.

Ms. Steeves argued that the analysis of Ms. Dufort's position overlooked her responsibility as "the commission spokesperson at agency meetings, at the legislature, in court, at public meetings and seminars," all of which she characterized as assignments covered by the Laboratory Scientist V classification. Ms. Steeves argued that, "the standards of the laboratory and, therefore, of the commission are under her supervision and direction." She argued that those duties also included responsibility for the testing policies and procedures, and training and development of the laboratory staff, all of which were included in the accountabilities for a Laboratory Scientist V.

Ms. Steeves argued that the Division's review understated the number of positions reporting to Ms. Dufort, and the number of program areas Ms. Dufort oversees in connection with her work. She indicated that although the number of samples tested had decreased significantly, the number of actual tests performed on those samples, and the complexity of the testing, had increased.

Mr. McAulay argued that there had been a substantial decrease in the volume of work performed by the appellant, and that the changes in work procedures, including the use of different testing equipment or methods, did not change the complexity of the work performed. He also argued that there had been no change in the organizational structure within the lab which would warrant reclassification of the position to Laboratory Scientist V.

Mr. McAulay argued that 6 of the 8 duties listed on the Laboratory Scientist V class specification were actually being performed by Ms. Dufort's supervisor, Joseph Cote. He also noted that although Ms. Steeves only referred to differences in the assessment of the "Communications" and "Independent Action" factors, the classification of Laboratory Scientist V also was assessed at a higher level for the "Knowledge" factor. He argued that professional accreditation of the

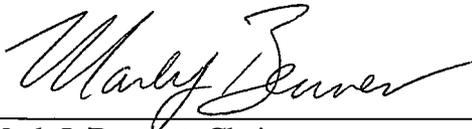
Corrections and Public Health laboratories required the Laboratory Scientist V in charge of the lab to possess a Master's Degree, a fact reflected in the minimum qualifications for those positions and the classifications to which those positions were assigned.

Mr. McAulay argued that Mr. Cote's assessment of the educational requirements for the Laboratory Scientist in charge of the daily operations of the Pari-Mutuel lab was consistent with the classification of Laboratory Scientist IV. He argued that the review was not a "management review," as the appellant had characterized it, but was instead a request submitted by the appellant's immediate supervisor. He also pointed to a February 18, 1997, letter from Timothy J. Connors, Chairman of the Pari-Mutuel Commission, to Mr. Cote, asking when during the last five years Ms. Dufort might have appeared before the legislature, a New Hampshire Court of competent jurisdiction, public meetings or seminars on behalf of the Commission. Laboratory Chief Joseph Cote's response indicated that after reviewing the SEA appeal submissions, he believed there had been a misunderstanding, and he had advised Ms. Dufort to contact her SEA representative and correct those statements. He stated that Ms. Dufort had never represented the Commission, but instead had represented the Commission Laboratory at Commission hearings, Commission meetings, scientific seminars, and conferences.

In a classification appeal, the appellant bears the burden of proof. The Board found that Ms. Dufort's job assignments, as outlined in her classification questionnaire, are more accurately described by the class specification for Laboratory Scientist IV. The evidence provided no justification for the appellant's suggestion that an additional two years of laboratory experience in an administrative or managerial capacity should be deemed equivalent to possession of a Master's degree, or that such experience warranted increasing the "Knowledge" factor. Similarly, there was insufficient evidence to support the appellant's assertion that attending conferences and seminars, representing the Pari-Mutuel Lab at Commission meetings, and testifying at Commission hearings should be rated at the same level for "Communications" as Laboratory Scientist V positions that are required to testify in court and represent the agency before the legislature.

On the evidence, argument and offers of proof, the Board found insufficient evidence to support reclassification of Ms. Dufort's position to Laboratory Scientist V. Accordingly, the Board voted to deny Ms. Dufort's appeal.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD



Mark J. Bennett, Chairman



Robert J. Johnson, Commissioner

cc: Virginia A. Lamberton, Director of Personnel, 25 Capitol St., Concord, NH 03301
Margo Steeves, SEA Field Representative, State Employees' Association
PO Box 3303, Concord, NH 03302-3303
Paul Kelly, Director, NH Pari-Mutuel Commission
244 North Main Street, Concord, NH 03301-5041