

State of New Hampshire



PERSONNEL APPEALS BOARD
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APPEAL OF GAGNE, HARRINGTON AND KIMBALL
OHRV Area Supervisors
Docket #93 - C-18
Department of Resources and Economic Development
Division of Parks and Recreation

June 1, 1994

The New Hampshire Personnel Appeals Board (Bennett, McGinley and Rule) met Wednesday, December 1, 1993, to hear the classification appeal of Area Supervisors of Off-Highway Recreational Vehicles. The Area Supervisors appeared on their own behalf. Virginia Lamberton, Director of Personnel, represented the Division of Personnel.

In preliminary matters, the Board refused to accept the appellants' late submission of additional materials which they intended to offer into evidence. Chairman Bennett referred the parties to the Board's notice of scheduling dated November 1, 1993 which had advised the parties that the Board would not allow either party to submit additional materials at the time of the hearing.

The Director requested that the matter be dismissed as untimely. She said that the original request for review of the OHRV Area Supervisor positions was received by the Division on November 6, 1992, that the position review interviews were completed on January 5-6, 1993, and that a final decision was issued to Stephen Rice, Commissioner of Resources and Economic Development on February 5, 1993. The appellants wrote to the Director by letter dated February 17, 1993, stating that they would be submitting additional material for her to consider as part of a request for reconsideration. They then submitted a request for reconsideration of her decision by letter dated March 5, 1993, received by the Division on March 8, 1993.

On March 17, 1993, the Director wrote to the appellants advising them that their request for reconsideration was untimely. Specifically, she noted that the Rules of the Division of Personnel require that any request for reconsideration must be received within 15 days of the date of the Director's decision, and must outline the specific areas for which reconsideration was being requested, along with a detailed explanation outlining why the appellants believed the decision was in error. She advised the appellants that the request must be denied as untimely, but that for their information, she would respond to the issues raised in their March 5, 1993 letter. The appellants submitted that letter as an attachment

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to their appeal to this Board.

The Board took the Director's request to dismiss the appeal under advisement and allowed the appellants to proceed with the presentation of their appeal.

The appellants' positions are allocated at the same level as Forest Rangers III in the factors of , Impact, Physical Demands, Communications, and Complexity. They are allocated at one degree lower than Forest Rangers I - III in the Knowledge factor which is defined as follows;

"Knowledge" means the combination of preparation and learning through formal education or through experience in a position which requires formal education necessary to perform specific job functions. This factor measures the educational background or technical knowledge required to meet the minimal job performance standards.

The minimum qualifications for positions of Area Supervisor, Bureau OHRV, include graduation from high school, G.E.D. or its equivalent, and two years of experience in law enforcement, public relations, trail or forestry construction, or heavy equipment operation. Approved additional formal education and experience may be substituted for one another to satisfy the minimum qualifications for the class. Additionally, appointees must possess a valid New Hampshire driver's license and must complete the New Hampshire Police Academy prior to completion of the probationary period, and must attend other Law Enforcement Training schools as required.

By contrast, a Forest Ranger III must possess an Associate's degree or its equivalent from a recognized college or technical institute, with major study in forestry, horticulture, natural resources, environmental conservation, fire science or criminal justice, and must have three years' experience in a forest fire district performing Forest Ranger II duties. Education and experience may not be substituted for one another. Additionally, Forest Rangers I - III are required to obtain a New Hampshire Class B Commercial Drivers license with tank vehicle and air brakes endorsements before appointment and must maintain that license through the period of employment. They must be certified in Red Cross Multi-media First Aid or its equivalent and CPR during the probationary period and maintain that certificate through the period of appointment. They also must successfully complete the specified course and become fully certified to fight forest fires, and must successfully complete the New Hampshire part-time police officer certification course, become certified as part time officers, and maintain that certification with a minimum of 8 additional hours of approved training per year to maintain the certification.

The Board did not find that the appellants' positions warrant allocation of the "Knowledge" factor at the same level as the Forest Ranger classification. Clearly, the minimum qualifications for entry into the class are substantially higher for the classification of Forest Ranger. Similarly, the continuing certification requirements are higher for the classification of Forest Ranger than for the classification of Area Supervisor, Bureau OHRV. Accordingly, the Board voted to deny the requested increase for the "Knowledge" factor.

The appellants argued that they have supervisory responsibilities consistent with positions of Forest Ranger III. They noted that they may supervise Mountain Equipment Operators, Laborers, Foreman, Maintenance Mechanics and trail volunteers. By comparison, Forest Rangers conduct indoor and outdoor training classes for local fire wardens, fire fighters and coordinate the training needs of the region. They coordinate an area of forest fire districts, and organize assigned geographical areas to ensure forest fire protection personnel are properly staffed in each district, and supervise the activities of subordinate Forest Rangers. The Board did not consider the responsibilities sufficiently similar to warrant increasing the Area Supervisors from the second to the third level for this factor.

The Area Supervisors argued that their responsibilities under the heading of "Independent Action" lie somewhere between the third and the fourth level for this factor. Area Supervisors are allocated at the same level for Independent Action as Forest Rangers II. They agreed that their duties do not rise to the level of the Forest Ranger III classification, but argued that this factor warranted a higher allocation of points than those assigned to the classification of Forest Ranger II. The classification plan makes no provision for assigning a range of points to any individual evaluation factor. Accordingly, the Board denied the appellants' request for an increase in this factor.

The only remaining factor is Working Conditions, which measures the specific working environment and physical conditions to which an employee is exposed in performing job duties and tasks. According to the classification plan, "This factor measures the uncontrollable job elements which affect an employee's mental or physical capacity to complete job assignments in the normal course of work, including occupational hazards such as injury or disease." The appellants' positions are rated at the 3rd degree, which is defined as follows:

Requires performing regular job functions in an environment which includes exposure to continuous physical elements or a number of disagreeable working conditions with frequent exposure to minor injuries or health hazards.

The fourth degree which the appellants have requested is defined as follows:

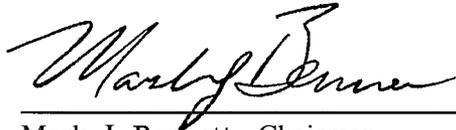
Requires performing regular job functions in an adverse working environment containing a combination of disagreeable elements which impact significantly upon the employee's capacity for completing work assignments. This level includes work-related accidents or assault.

While the appellants argued that their positions should be allocated one degree higher, consistent with the Forest Ranger class series, they offered no evidence to persuade the Board that their working conditions impact significantly upon their capacity for completing work assignments. The appellants' positions are currently rated at a total of 255 points in the classification plan. Even if the Board were to increase this factor from 20 to 25 points as the appellants have requested it would not affect the ultimate salary grade assignment of their positions, as the range of points for positions in salary grade 13 is 250-264 points. Increasing the total to 260 points, even if there were evidence to support such an increase,

would not add enough points to gain the appellants an additional grade.

The Board found that there was insufficient evidence of material or substantial change in the appellants' duties to warrant upgrading their positions as they had requested. Further, the Board found that the appellants failed to file a timely request for reconsideration of the Director's original decision. For those reasons, the Board voted to deny the appeal.

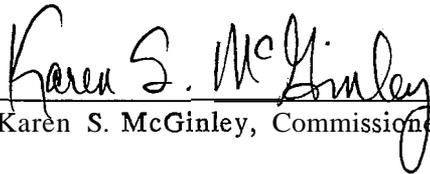
THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD



Mark J. Bennett, Chairman



Lisa A. Rule, Commissioner



Karen S. McGinley, Commissioner

- cc: Virginia A. Lamberton, Director of Personnel
Scott Gagne, Area Supervisor
Warren Harrington, Area Supervisor
Clyde Kimball, Area Supervisor
William Bartlett, Commissioner, Resources and Economic Development