

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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### *APPEAL OF MARK GALLAGHER*

*Docket 99-C-18*

*Department of Safety, Bureau of Marine Patrol*

January 19, 2000

The New Hampshire Personnel Appeals Board (Wood, Johnson and Rule) met Wednesday, September 8, 1999, under the authority of RSA 21-I:57, to hear the classification appeal of Lieutenant Mark Gallagher, an employee of the Department of Safety, Bureau of Marine Patrol. The appellant was appealing the Director's March 30, 1999 decision denying the agency's request to increase the salary grade for the position of Marine Patrol Lieutenant from salary grade 19 to salary grade 23. The appellant was represented at the hearing by SEA Field Representative, Jean Chellis. The State was represented by Virginia Lamberton, Director for the Division of Personnel. The appeal was heard on offers of proof by the representatives of the parties.

The record of the hearing in this matter consists of pleadings submitted by the parties prior to the hearing, the audio tape recording of the hearing of the merits, notices and orders issued by the Board, and documents admitted into evidence at the hearing as follows:

### Appellant's Exhibits

1. Additional written arguments to support the requested level in the Complexity factor
2. The March 30, 1999 letter to Claude Ouellette from Director Lamberton regarding her decision on the position review of Marine Patrol Lieutenant
3. The position classification questionnaire completed by Lieutenant Gallagher
4. The class specification for Marine Patrol Lieutenant
5. The supplemental job description for Marine Patrol Lieutenant approved by Director Lamberton on March 29, 1999
6. Division of Safety Services Organizational Chart

### State's Exhibits

- A. Memo dated June 9, 1998 from Claude Ouellette to Director Lamberton
- B. Memo dated October 8, 1998 from David Barrett to Director Lamberton
- C. Position Classification Questionnaire for position #40033, Marine Patrol Lieutenant
- D. Proposed supplemental job description for position #40033
- E. Organizational chart for Division of Safety Services
- F. Decision letter to Claude Ouellette dated March 30, 1999
- G. Letter of appeal dated April 14, 1999
- H. May 4, 1999 letter to Virginia Lamberton from Jean Chellis
- I. Class specification for Marine Patrol Lieutenant
- J. Current and proposed Point Factors for Marine Patrol Lieutenant

Ms. Chellis argued that although Director Lamberton asserted that there had been insufficient change in the level of job responsibilities to warrant an increase in the appellant's salary grade, the appellant believed that six of the nine classification evaluation factors should be changed as follows:

MARINE PATROL LIEUTENANT	CURRENT ALLOCATION	PROPOSED ALLOCATION
SALARY GRADE	19	23

FACTOR	LEVEL	POINTS	LEVEL	POINTS
SKILL	4	65	4	65
KNOWLEDGE	3	60	4	85
IMPACT	4	40	4	40
SUPERVISION/MANAGEMENT	3	15	4	40
WORKING CONDITIONS	3	20	4	25
PHYSICAL DEMANDS	3	20	4	25
COMMUNICATION	4	35	5	55
COMPLEXITY	3	50	4	80
INDEPENDENT ACTION	4	55	4	55
TOTAL EVALUATION POINTS		360		470

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

#### Findings of Fact

1. The Evaluation Manual defines "Knowledge" as "the combination of preparation and learning through formal education or thorough 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."
2. The class specification for Marine Patrol Lieutenant requires an applicant to possess an associate's degree from a recognized college or technical institute with major study in law enforcement, criminal justice, police science, or business administration. Each additional year of approved formal education may be substituted for one year of required work experience.
3. According to the Technical Assistance Manual, an Associate's degree is equivalent to the current allocation at level 3 for the "Knowledge" factor.

4. The appellant's position is currently rated at level 3 for "Supervision/Management" and he has requested an increase to level 4. The Evaluation Manual defines supervision 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."
5. The appellant indicates that he manages the Maintenance and Communications sections and assists the Bureau Commander in management of the Enforcement Section, the Boating Safety Program, Watercraft Safety Officer Program, Officer Training Program, purchasing and clerical functions and personnel assigned to those units. Assisting in or contributing to "management" of one or more programs does not support allocation overall at level 4, as he is not responsible for developing those units' work methods and managing the work units.
6. The Technical Assistance Manual indicates that in order to be considered a "working condition" a specific physical condition to which a worker is exposed while performing assigned duties and tasks must be present at least 20% of the time during the basic workweek.
7. The current allocation for "Working Conditions" at level 3 "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." In light of the administrative responsibilities associated with the appellant's position, the evidence does not support allocation at a higher level.
8. The appellant has requested an increase from level 3 to level 4 for the "Physical Demands" factor, which entails "continuous physical exertion [more than 75% of total work time] in a taxing work position such as frequent bending, lifting, or climbing." Although there is evidence of physical exertion in the duties associated with the position, activities such as bending, lifting or climbing do not represent 75% or more of the appellant's total working time.
9. According to the Technical Assistance Manual, the "Communications" factor "measures the requirements of the position to articulate and express the goals of the agency." The Technical Assistance Manual also indicates that, "When rating the Communications factor, the level of

communication increases from conveying information important to the daily functioning of the agency to representing the agency's agenda before state policy makers."

10. The appellant's position is currently rated at level 4 which, "Requires summarizing data, preparing reports, and making recommendations based on findings which contribute to solving problems and achieving work objectives. This level also requires presenting information for use by administrative-level managers in making decisions."
11. Level 4 accurately describes the appellant's responsibility for internally and externally communicating the agency's goals and objectives within the current management structure.
12. The appellant has requested an increase in the allocation of the "Complexity" factor from level 3 to level 4. According to the Evaluation Manual, "Complexity means the combination of specific job functions in relation to the overall structure and purpose of the job. This factor measures the diversity of the tasks performed, the application of fundamental principles to solve specific problems, and the level of judgment required to apply knowledge acquired through training and experience."
13. The evidence reflects that the appellant's job assignments do require "coordinating a combination of diverse job functions in order to integrate professional and technical agency goals." The nature of the work assigned also reflects that the appellants must use "considerable judgment to implement a sequence of operations or actions," supporting an increase in the "Complexity" factor from level 3 to level 4.

#### Rulings of Law

- 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 connection. [RSA 21-I:57]
- B. The position classification plan, which is exempt from rulemaking under RSA 21-I:43, II(a), shall be the plan as defined in this rule. [Per 301.01(a)]
- C. The standard for allocating the position of every employee in the classified service shall be the position classification plan, which is prepared and revised by the director under RSA 21-I:42, II. [Per 301.01(b)]

- D. The position classification plan shall consist of the following:(1) A complete set of published class specifications established under Per 301.02 grouped alphabetically by class title; and (2) The evaluation plan and point factors used to write class specifications and classify positions, which is listed in the technical assistance manual. [Per 301.01(c)]
- E. The request for a classification determination shall include at least the following: (1) A copy of the description annotated to reflect the proposed changes; and (2) A written statement which includes an explanation of how the proposed change is related to corresponding changes in the agency's goals, objectives, structure, and organizational chart. [Per 301.031 (m)]

### Decision and Order

The Board, after reviewing the evidence and the oral presentations, and based on the findings and rulings set forth above, found that the position of Marine Patrol Lieutenant should be reallocated from salary grade 19 to salary grade 20.

THE PERSONNEL APPEALS BOARD

  
Patrick H. Wood, Chairman

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Lisa A. Rule, Commissioner

  
Robert J. Johnson, Commissioner

cc: Thomas F. Manning, Director of Personnel, 25 Capitol St., Concord, NH 03301  
Jean Chellis, SEA Field Representative, PO Box 3303, ,Concord,NH 03302-3303  
Claude Ouellette, Human Resources Administrator, Department of Safety, 10 Hazen Dr.,  
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