

State of New Hampshire

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PERSONNEL APPEALS BOARD

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APPEAL OF BERNARD LUCEY Docket #89-C-6

Department of Environmental Services
Division of Water Supply and Pollution Control
Water Supply Engineering Bureau

January 10, 1991

The New Hampshire Personnel Appeals Board (McNicholas and Johnson) met Wednesday, November 8, 1989, to hear the classification appeal of Bernard Lucey, Administrator of the Bureau of Water Supply Engineering, Department of Environmental Services. Mr. Lucey appeared pro se. Also appearing on his behalf were John Collins, Acting Director of the Division of Water Supply and Pollution Control and Robert Varney, Commissioner of the Department of Environmental Services. Virginia A. Vogel, Director of the Division of Personnel, appeared on behalf of the Division.

Mr. Lucey's appeal arises from a reconsideration decision of the Director of Personnel dated April 7, 1989, reallocating Mr. Lucey's position to Administrator III, salary grade 30. The appellant had requested that his position be classified as Administrator IV, salary grade 32. The appellant's position originally had been established as the unclassified Director of Municipal Services, Water Supply and Pollution Control Commission, Salary Group L., and the appellant would continue to receive his salary at unclassified group L, under the provisions of RSA 21-0 (Appellant's Item 3).

In his April 21, 1989 letter to the Board in support of his appeal, Mr. Lucey argued that the nature of his duties in the areas of responsibility, complexity and impact on public health had risen substantially since the enactment of the EPA Safe Drinking Water Act. He contended that the point values assigned to the various evaluation factors for the position of Administrator III did not accurately reflect the level of his responsibility, and that the classification Administrator III was inconsistent with comparable management level positions in both his department and the Department of Transportation.

On February 8, 1989, former Commissioner Alden Howard, Department of Environmental Services, requested that the Division of Personnel reconsider classification decisions affecting three positions in his Department, including that held by Bernard D. Lucey, Administrator of the Water Supply Engineering Bureau. Commissioner Howard argued that Mr. Lucey's position headed a bureau whose "...scope, complexity and volume have grown enormously over the past few years". He also argued that "...many of our senior engineers are labor grades 29, 30 and 31 so an administrator managing a bureau with these senior level people should be at a higher grade".

Mr. Lucey submitted an exhaustive packet of information for the Board's review, including a detailed explanation of his duties and responsibilities, a comparison of degree assignments for all 9 classification attributes for the classification Administrator III approved by the Division of Personnel and the Administrator IV classification proposed by the Department of Environmental Services, a comparison of his position to similar positions within his own department, a comparison of selected organizational charts throughout state service, and a variety of other pieces of supporting documentation.

As noted by Mr. Lucey in his appeal, the various evaluation attributes and accompanying point-to-grade table applies only to positions allocated at salary grade 30 or lower. Reclassification of positions over salary grade 30 must be accomplished without the benefit of definitions and descriptions for the various evaluation attributes, and can only be undertaken by comparing the position to ostensibly similar positions in State government.

Having reviewed the information provided by Mr. Lucey in his classification questionnaire and the information submitted in support of his appeal, the Board compared the material provided therein with the Evaluation Manual in order to determine if Mr. Lucey's duties and responsibilities exceeded those defined by the classification Administrator III. In the chart titled DEGREE POINT VALUES, appearing as page 5 of Mr. Lucey's submission to the Board, the appellant indicates that the only evaluation attributes which he and the Department believe to be undervalued are the factors of Education and Experience.

The Administrator III classification is allocated at the 7th degree (100 points) for the Education attribute, and at the 8th degree (100 points) for the attribute Experience. In his written submissions, Mr. Lucey has suggested that the Education attribute should be increased to 125 points and the Experience attribute increased to 150 points.

Before discussing the actual job attributes, the Board should point out that Mr. Lucey's representation of the 8th degree for Education equating to 125 points is in error. The 8th degree for this attribute is allocated 115 points in the Evaluation Manual, and requires "an educational background equivalent to a Master's degree plus 30 additional hours of approved graduate work. The

9th degree, which is allocated 125 points, requires "an educational background usually equivalent to three or four years of graduate work leading to a MD. or Ph.D. degree.

The 7th degree under the attribute of Education is defined in the Evaluation Manual, which the Division of Personnel has approved as the appropriate level of formal training for employees classified as Administrator III, requires "one or two years of graduate work or its equivalent in order to understand and perform methods and developments offered beyond the scope of ordinary college training. Mr. Lucey argues that his position should require this attribute be allocated at the 8th degree which, as discussed above, would result in an award of 115 points. Based upon the information supplied by the appellant in support of his appeal, the Board did not find that an employee at entry level in Mr. Lucey's position would require the level of formal training proposed by the appellant.

The additional formal training which Mr. Lucey possesses undoubtedly contributes to his effectiveness in his position within the Bureau of Water Supply Engineering. However, the Board must confine itself to consideration of the minimum level of educational preparation necessary to perform the job. The Board must also consider the issue of appropriate levels of formal training in conjunction with the minimum levels of experience required to perform the job satisfactorily.

The Evaluation Manual defines "Experience" as "the amount of time spent in practical preparation in the same or related work. It is the time required by a person to satisfactorily perform the work [of sufficient quality, output, and performance standards as to insure continued employment] and does not include any time of the employees spent beyond this. Technical ability and fundamental knowledge should not be included in this factor." Mr. Lucey has suggested that this attribute be increased to the 10th degree requiring more than 10 years' experience in performing the same or related work.

If the Board were to accept Mr. Lucey's reasoning in light of the Evaluation Manual, upon hiring into his position, an employee would need to possess the equivalent of a Master's degree in Civil, Sanitary or Environmental Engineering, plus three or four years of additional graduate work in the area of specialty, and have more than 10 years' experience in the same or related work in order to meet minimum performance standards for continued employment. The Board cannot accept this argument.

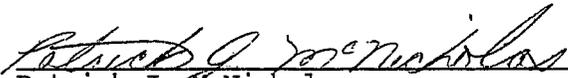
The Board finds that an individual possessing a bachelor's degree in engineering, plus a year or more of graduate study, who has 7 or 8 years' experience in the field performing the same or related work should be able to meet minimum performance standards. As such, Mr. Lucey's request that these evaluation attributes be increased is denied.

The Board also took into consideration Mr. Lucey's argument that other

positions within his own agency and throughout State service which have a similar level of responsibility and require the same degree of technical expertise are compensated at significantly higher salary grades than that recommended for his position by the Division of Personnel. Having reviewed the materials submitted by the appellant, however, the Board is more inclined to find that the positions Mr. Lucey has chosen for comparative purposes may be over-graded, rather than that his position is under-graded.

The Board voted to grant the Division of Personnel's requests for findings of fact to the extent that they are addressed in the decision above. The Board further voted to grant the Division's requests for rulings of law. Accordingly, the Board denied **Mr. Lucey's** request that his position be reallocated to Administrator IV, salary grade 32.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas


Robert J. Johnson

- cc: Bernard Lucey, Administrator
Water Supply Engineering Bureau

- Robert Varney, Commissioner
Department of Environmental Services

- Virginia Vogel, Director
Division of Personnel

- Civil Bureau - Attorney General's Office