

# State of New Hampshire

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## APPEAL OF DEBRA LISTZWAN AND RODERICK OSBORNE

October 5, 1988

At its meeting of Tuesday, June 14, 1988, the Personnel Appeals Board, Commissioners Cushman and Platt sitting, heard the classification appeal of Debra Listzwan and Roderick Osborne, employees of New Hampshire Hospital. The appellants were represented at the hearing by SEA Field Representative Stephen McCormack. Edward J. McCormack, Classification and Compensation Administrator, represented the Division of Personnel. Both the appellants and the Division of Personnel made written submissions for the Appeals Board's consideration prior to the hearing.

Upon review of the evidence, the Board found that the matter under consideration had a lengthy history dating back to a 1984 request from former New Hampshire Hospital Superintendent Ernest Townsend that a number of Therapeutic Service positions be upgraded. Upon review of the evidence and testimony presented, the Board made the following findings.

On March 20, 1984, New Hampshire Hospital requested upgrading of approximately 12 classes of employees. After completion of position reviews and on-site job audits, former Director of Personnel Judy Bastian issued a May 22, 1986 decision denying the requested upgradings. Included in the classes under review were Recreational Therapy Assistant I, salary grade 6 and Recreational Therapy Assistant II, salary grade 8. In her May 22, 1986 decision, Director Bastian concluded that Recreational Therapy Assistants I and II were properly evaluated at salary grades 6 and 8 respectively.

By letter dated June 3, 1986, SEA Field Representative Dennis Martino requested a hearing to appeal denial of upgrading for all the classes involved in the Therapeutic Activities Services position review. Subsequent to that hearing request, on November 20, 1986, SEA Field Representative Stephen McCormack requested that "an appeal date be pended for the T.A.A. (Therapeutic Activity Services) personnel at New Hampshire Hospital." The Board held that appeal in abeyance pending receipt of additional information from the appellants' representative at the State Employees' Association.

On October 26, 1987, SEA Field Representative McCormack provided the Appeals Board's secretary with a copy of a June 19, 1987 letter from Personnel Director Vogel to N.H. Hospital Superintendent Jack Melton in which the Director agreed to upgrade the majority of the classifications in the Therapeutic Activities position series at the Hospital. In that letter, the Director also concluded that Recreational Therapy Assistant I positions,

salary grade 6, and Recreational Therapy Assistant II positions, salary grade 8, should be consolidated in a single classification of Recreational Therapy Assistant, salary grade 8. Those reallocations became effective retroactive to March 20, 1984.

The appellants, by letter dated July 8, 1987, through their representative the State Employees' Association, appealed the Director's decision. In their pre-hearing submissions, the appellants stated, "Since the appeal there has [has] been several discussions between the named appellants, the Supervisor of Recreational Therapy and the Administrator of Rehabilitative Services, New Hampshire Hospital. The outcome of the discussions between the cited parties is that if the position of the Division of Personnel, State of New Hampshire, is that the Division feels that there should not be two separate and distinct positions for Recreational Therapy Assistants, Recreational Therapy Assistant I and Recreational Therapy Assistant II and that there should be only one distinct position, that of Recreational Therapy Assistant, then the Division of Personnel's position is acceptable to the cited parties but only for the title of Recreational Therapy Assistant. The cited parties still contend that the Salary Grade recommended, Salary Grade 8, is improper and needs to be raised to Salary Grade 10."

The appellants requested that the Board consider the impact of the decision upgrading Mental Health Worker I and Certified Nursing Assistant I positions to salary grade 8. The appellants state, "This is the same Salary Grade that is assigned to Recreational Therapy Assistants. Prior to the reevaluation upward of the Mental Health Worker and Certified Nursing Assistant Series the majority of Recreational Therapy Assistant vacancies were filled by former Mental Health worker I's or Certified Nursing Assistant I's." While the Board appreciated the potentially adverse impact such a decision may have had on promotional recruitment to fill Recreational Therapy Assistant positions, the Board found this argument was not relevant when determining the proper classification and salary grade allocation for the appellants.

The appellants further requested that the Board consider adjusting the following position evaluation attributes in determining an appropriate salary grade allocation for the appellants positions: Initiative, Personal Relationships and Working Conditions. The appellants indicated agreement with the remaining six evaluation attributes. The Board will not, therefore, address those attributes in this decision.

#### INITIATIVE

The appellants suggested that this attribute, currently evaluated at the second degree, be increased to the fourth degree. The Evaluation Manual defines Initiative as the factor which, "...relates to the job's requirements for exercise of judgment, independent action, and creative effort in originating new methods or procedures. In addition, initiative refers to resourcefulness beyond routine practices, supervision, and regulatory procedures established by statute." The second degree for initiative is then

defined as "the ability to perform routine operations but which involve the use of several procedures, though working under close supervision with frequent guidance and check, referring all questions to the supervisor that do not fall within standard practice and precedent."

The appellants argued that they "frequently work without close supervision," that they must "plan and perform their work independent of their supervisors," that they often serve as "senior staff member present and thus must assume responsibility for the group activity," and that they are "responsible for development of Recreational programs for the people that reside at New Hampshire Hospital." They further argued that they must be "flexible and creative in their development of appropriate programs for these patients."

The Board did not find that the appellants work assignments required an increase to the fourth degree for Initiative. The fourth degree for this factor includes "devising new methods, modifying procedures to meet new conditions, and planning and performing work where general instructions only are available." Recreational Therapy, as described by the appellants in their presentation to the Board, is one of several components in a plan of treatment. Additionally, although the appellants may work without constant, direct supervision, the Board did not find that such lack of constant supervision required reallocation to the fourth degree for Initiative. The Board therefore voted to deny the requested increase for this attribute finding the positions properly evaluated at the second degree.

#### PER I RELATIONSHIPS

The appellants have also requested that this factor be increased from the second to the fourth degree. The Evaluation Manual defines Personal Relationships as the "degree of personal contact and relationships involved in a job. Consideration must be given to the significance and frequency for meeting, dealing with or influencing others." The appellants listed eight units within New Hampshire Hospital (Dietary, Transportation, Patient Payroll, Medical Records, Greenhouse, Volunteer Office, Kent Korner Boutique) which must be contacted daily in the performance of their work. Additionally, the appellants listed four other outside contacts (SPCA, State Parks, Local Stores and "Special Entertainment" contacts) related to the work they perform. The appellants argued, "Recreational Therapy Assistants work independently and must deal with various units, departments and agencies. The Assistants must always gain the cooperation of the units, departments and/or agencies, and must be able to discuss problems and share information."

Upon review of the general definition for the attribute of Personal Relationships, and the description of the second and fourth degrees for this attribute, the Board found the appellants positions properly allocated at the second degree, or "Work occasionally involv[ing] contacts with others beyond immediate associates..."

The Board found the frequency and the nature of contacts made by the appellants were best described by the second degree and therefore voted to deny the requested increase for this attribute.

WORKING CONDITIONS

Recreational Therapy Assistants are currently evaluated at the third degree for the attribute Working Conditions. Again, the Evaluation Manual defines Working Conditions as "the physical conditions, surroundings or disagreeable job conditions under which the work must be performed, over which the employee has no control..." The appellants argued that their positions should be rated at the fourth degree, particularly in consideration of the fact that Mental Health worker and Certified Nursing Assistant positions are rated at the fifth degree for this factor. The appellants also stated that they work with patients at the hospital at least 6 hours a day and are exposed to the same health hazards as Mental Health Workers and/or Certified Nursing Assistants.

The Board found that the appellants had provided insufficient justification to support a reallocation to a higher degree for this attribute. The appellants did not provide documentation to support their contention that they experience the same degree of disagreeable working conditions as Mental Health Workers or Certified Nursing Assistants. The Board therefore voted to deny the requested increase in this attribute.

Based upon the foregoing, and upon consideration of all the evidence and testimony presented, the Board voted unanimously to deny the appeal of Debra Listzwan and Roderick Osborne, finding that their positions at the time of the 1984 position review were properly classified as Recreational Therapy Assistant, salary grade 8.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE  
Executive Secretary

cc: Stephen J. McCormack  
SEA Field Representative

Sharon Sanborn, Human Resources Director  
New Hampshire Hospital

Virginia A. Vogel  
Director of Personnel