State of New Hampshire

PERSONNELAPPEALSBOARD
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Evaluation Appeal of Proulx
and
Evaluation Appeals of Archie, et al

The New Hampshire Personnel Appeals Board, Commissioners McNicholas, Cushman and Scott sitting, met on Wednesday, February 8, 1989 to hear the evaluation appeals of Proulx and Archie, et al, employees of the New Hampshire Liquor Commission. Jean Chellis, SEA Field Representative, appeared on behalf of the appellants. Edward J. McCann, Classification and Compensation Administrator, represented the Division of Personnel.

A. Background leading up to the reevaluation.

On August 1, 1988, the Liquor Commission asked the Director of Personnel to review the Commission's store managerial positions. Exhibit A. At the time of the request, there were six classes of positions, ranging from salary grade 11 to salary grade 16. The Comnission recommended the retention of the six classes and the increase of each class by two salary grades.

On September 7, 1988, the Director of Personnel responded. Exhibit B. The Director suggested the creation of four classes of positions, ranging from salary grade 12 to salary grade 18, in two-grade increments. For ease of reference, the Board will utilize the following abbreviations to describe the old and new positions.

Old Titles

Assistant Retail Store Manager I	Assistant I
Assistant Retail Store Manager II	Assistant II
Retail Store Manager I	Manager I
Retail Store Manager II	Manager II
Retail Store Manager III	Manager III
Retail Store Manager IV	Manager IV

New Titles

Retail Store Manager I	RSM I
Retail Store Manager II	RSM II
Retail Store Manager III	RSM III
Retail Store Manager IV	RSM IV

The Liquor Commission has three sizes of stores: small, medium and large. Exhibit J. A small store is managed by a Manager I. A medium store is managed by a Manager II and an Assistant I. A large store is managed by a Manager IV and three Assistant II's.

The Director proposed reducing the number of classes by combining the Assistant I and Assistant II positions into one class (RSM I), and by combining the Manager II and Manager III positions into one class (RSM III). Since only one person had the title Manager III, and that person would get an increase in salary grade under the new proposal, the elimination of this class did not seem to provoke any controversy.

On September 20, 1988, the Commission responded to the Director. Exhibit C. The Commission requested that the Director place Assistant II's with the RSM II's rather than with the RSM I's. If this modification had not been implemented, the Assistant II's would have been the only class not to receive an increase in salary grade.

The amended proposal put forward by the Commission looked like this:

Old	New
Assistant I	RSM I
Assistant II	RSM II
Manager I	RSM II
Manager II	RSM III
.Manager III	RSM III
Manager IV	RSM IV

On October 5, 1988, the Director acceded to the request:

> provide that your Commission is convinced that each of the positions presently classified as Assistant Retail Store Manager IIs who are Managers in the smaller stores in your agency. I will expect your Commission to be able to justify to a Retail Store Manager II in charge of smaller liquor stores why he or she has duty assignments in the same level or responsibility as Assistant Managers in the larger liquor stores. Unless you are prepared to justify such a comparison, I would hesitate to approve your request at this time.

Exhibit D.

The Commission responded to the Director on October 10, 1988, with a detailed justification. Exhibit E. Copies of that response were sent to all Store Managers and Assistant Managers.

On November 7, 1988, the Director issued her decision to reclassify the positions in accordance with the amended proposal. Exhibit F. As a result, Appellant Proulx was reclassified from Assistant I to RSA I. In addition, Appellants Archie et al were reclassified from Manager I to RSM II.

B. Appeal of Proulx.

On November 22, 1988, Appellant Proulx filed this appeal. Exhibit G. Appellant claims that the initial proposal by the Liquor Commission that his class be reevaluated to salary grade 13 was more appropriate than the Director's ultimate decision.

Appellant contends that the "Complexity of Duties" attribute is improperly allocated at 45 points (3rd degree) and that it should be reallocated to 60 points (4th degree). Appellant raises three arguments in support of his claim.

First, the Appellant looks to a description of his duties, as presented by the Liquor Commission, to support the conclusion that the complexity of his tasks has changed over time and justifies the higher award.

Second, Appellant notes that his boss (a Manager II) was given an increase in the attribute of complexity of duties, while Appellant was not. From this fact, Appellant argues that the complexity of duties for medium stores must have changed, and he should be awarded higher points.

Third, Appellant claims that the complexity of duties of an assistant manager is not affected by the size of the store. Accordingly, he should have the same number of points for complexity of duties as does an Assistant II who assists in a large store. Appellant notes that before the review, both Assistant I's and Assistant II's had the same number of points for complexity of duties.

C. Appeal of Archie, et al.

On November 22, 1988, a number of Manager I's ("the Manager I's") filed this appeal. Exhibit G. The Manager I's claim that the initial proposal by the Liquor Commission that their class be reevaluated to salary grade 15 was more appropriate than the Director's ultimate decision.

The Manger I's contend that the "Complexity of Duties" attribute is improperly allocated at 60 points (4th degree) and that it should be reallocated to 80 points (5th degree). The Manager I's raise essentially three arguments in support of their claim.

First, the Manager I's look to a description of their duties, as presented by the Liquor Commission, to support the conclusion that the complexity of their tasks has changed over time and justifies the higher award.

Second, the Manager I's claim that the complexity of duties of a manager is not affected by the size of the store. Accordingly, they should have the same number of points for complexity of duties as does a Manager II who works in a medium store.

Third, the Manager I's claim that the job of manager of a small store is significantly more complex than the job of an Assistant II who assists in the management of a large store. Accordingly, they argue that they should be awarded more points for complexity of duties.

D. Analysis.

1. Size of store argument.

In both cases, Appellants rely on the argument that complexity of duties does not depend on the size of the store. The point levels awarded by the Division do suggest inconsistent treatment, both in the present and former allocations.

Under the old scheme, assistants for medium and large stores were given the same number of points for complexity of duties, while managers for medium and large stores were given different amounts. In addition, managers for small and medium store were given the same number of points.

Under the new scheme, assistants for medium and large stores are given different numbers of points for complexity of duties, while managers for medium and large stores are given the same amount. In addition, managers for small and medium stores are now given different amounts.

One can perhaps discern the pattern, though not necessarily the logic, in this superficially inconsistent relationship between size of store and complexity of duties. Common sense, however, would seem to suggest that complexity would increase with size.

The fact that size and complexity do not always go hand-in-hand, however, may result from the inherent limitations of an evaluation system which provides a finite number of levels with which to measure attributes. Thus, if you try to spread three levels of complexity over four job classes, two of the classes will simply have to be the same. Accordingly, the Board is reluctant to impose a foolish consistency upon classes under consideration.

The Board believes, based n the evidence and common sense, that running a large store must involve more complex duties than running a small store. The one constant that underlies both the old and the new allocations is that the small-store managers are one level below the large-store managers. Since only one level separates the two groups, logic compels the medium-store managers to

have the same level as one or the other; last time it was the lower level and this time it is the higher level. The Board focuses on the dissimilarity between large and small, rather than on the similarity between medium and small.

The Board also notes that it would face a difficult choice ,were it to accept the logic of both appellants. If you raise Manager I to the highest degree level, you would have to raise Assistant II as well, since the two have been combined. Once you have done that, you would have to raise Assistant I to the highest level as well, since the only difference is in size of store. The only way to avoid this dilemna, and remain rigidly consistent, is to break RSM II into its former component parts: Assistant II and Manager I. The Manager I's have virtually asked to have this done, as will be discussed below.

The Board concludes that the type of consistency advocated by Appellants, standing alone, does not require us to grant either appeal.

2. Other arguments.

The Division apparently did not undertake desk audits of the positions, instead relying heavily on the representations of the Liquor Commission. This hampers the Board's evaluation, as it must also rely on those representations without benefit of independent inspection.

This makes Appellants' reliance on the Commission's descriptions a two-edged sword, however, since the Commission and the Director have agreed upon the final evaluations. The Board finds, based on the evidence submitted, that the Director has not assigned as too few points for the attribute of complexity of duties.

Finally, Appellant Proulx argues that he should be given an increase in the attribute because his boss was given one. This argument has a great deal of surface appeal. It does not depend, as many of the arguments do, on the last-minute realignment of the Assistant II's, which caused much of the imbalance complained of. Nevertheless, the Board concludes that the number of points assigned for Appellant Proulx's position is not inappropriate, and we decline to change it.

3. Separation of Assistant II and Manager I.

As suggested above, the Manager I's have asked that they be separated from Assistant II's by being given the increase in points for complexity of duties. In refusing to do this, the Board has placed little reliance on the Director's stated purpose that she wanted to create a large enough salary grade differential to encourage employees to switch jobs. The Board does not see anything in the classification system that would allow the State to artificially undervalue one class for these ancillary purposes.

The Board does note that the Legislature has refused to permit the Board to create "new job classifications or job titles." RSA 21-I:46,VIII-a. Accordingly, even if the Board had wanted to, it could not have ordered the relief sought by the Manager I's.

E. Requests for Findings and Rulings.

At the hearing, the Division filed a document entitled Request for Findings of Fact and Rulings of Law. Appellants objected, claiming the document was not timely filed.

The Board agrees with Appellant that the document should have been filed earlier, as it contains more information and arguments than requests. Nevertheless, the Board gave Appellants a period of time to respond to the document, and Appellants filed no response.

The Board can see no hardship to Appellants in receiving the document. Accordingly, the Board declines to reject it.

Given the narrative nature of the submission, and the fact that no other documents were filed by the Division, the Board will treat the document as a statement of the Division's position, rather than a request for findings. The Division is cautioned to more carefully respect the time guidelines in the future, or risk default.

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas, Chairman

George R. Cushman, Jr., Member

Peter C. Scott, Alternate

cc: Jean Chellis, SEA Field Representative

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Virginia A. Vogel
Director of personnel

Date: May 24, 1989