

State of New Hampshire

WPPID658



PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF SUPERVISORS III (Office of Child Support Enforcement) Docket #89-C-38 and #89-C-40

Response to Appellants' Motion for Reconsideration and Rehearing

Department of Health and Human Services

January 10, 1991

By letter dated December 20, 1990, Robert V. Pliskin, Director of the Division of Human Services, filed a Request for Reconsideration of the Board's December 7, 1990 decision in the classification appeal of Child Support Enforcement Supervisors. A December 21, 1990 Request for Reconsideration of that same decision was filed by SEA Field Representative Stephen McCormack.

Both Requests for Reconsideration argue that on May 15, 1990, Classification Questionnaires for incumbents in the positions of Supervisor IV were submitted to the Division of Personnel, and therefore, the Board's reference to an absence of comparative information about the function of Supervisor IV positions was in error. For the record, the Board notes that the written arguments submitted by the appellants in support of their appeals were transmitted by letter from the State Employees' Association dated October 13, 1989, and did not include classification questionnaires completed by the Supervisor IV incumbents. Written arguments in support of the classification appeal were also submitted by the Division of Human Services by letter dated October 16, 1989. That submission did not include classification questionnaires completed by Supervisor IV incumbents.

Per-A 208.02 of the Rules of the Personnel Appeals Board provides:

- (a) "Within twenty (20) days after filing his appeal, the appellant shall file with the Board an original and three (3) copies of any evidence (including all documents or affidavits) that he believes support his position together with any written argument that he wishes the Board to consider. This submission shall cover all aspects of the appeal."

APPEAL OF SUPERVISORS III, Office of Child Support Enforcement
Docket #89-C-38 and #89-C-40
Response to Appellants' Motion for Reconsideration and Rehearing

page 2

- (Is) "If it is an evaluation appeal, the appellant shall cite those attributes and degree allocations that are believed improper along with supporting justification."
- (c) "If it is a classification appeal, a full explanation must be given as to why the position is incorrectly classified."

Both the Division of Human Services and the State Employees' Association argue that materials submitted to the Director of Personnel on May 15, 1990, eight days before the scheduled hearing, should now be considered part of the record for the purposes of deciding whether or not the Director's classification decision dated September 12, 1989 was in error. The Board does not agree.

In its decision dated September 12, 1989, the Division of Personnel requested that Supervisor IV incumbents complete classification questionnaires. On September 26, 1989, the State Employees' Association filed a request for hearing before the Board. The parties were notified by letter dated March 12, 1990 that a hearings had been scheduled in the above-noted classification appeals on May 9, 1990 and May 23, 1990.

By letter dated April 30, 1990, the Division of Human Services requested that the hearings be consolidated. Neither the Division of Human Services nor the State Employees' Association suggested that additional information had been or would be submitted to the Division of Personnel. Neither the Division of Human Services nor the State Employees' Association offered the additional classification questionnaires into evidence at the hearing on the merits. Neither the Division of Human Services nor the State Employees' Association asked that the record of the hearing be held open until such time that a comparative review could be completed by the Division of Personnel. The Board, therefore, will not consider the May 15, 1990 submission to the Division of Personnel as part of the record in this matter. Therefore, the Board finds no reason to reverse its earlier order on the basis of materials submitted to the Division of Personnel eight days prior to the actual hearing.

The appellants also contend that "The Division of Personnel had sufficient opportunity to review the documents provided on May 15, 1990 and conduct a thorough comparison of the Supervisor IV, Supervisor III and Supervisor II positions." (SEA letter, December 21, 1990). The Board finds this argument to be without merit. As the appellants know, RSA 21-I:54 III provides a standard of 45 days in which the Division of Personnel may dispose of requests for reclassification. While the Board is aware that the Supervisor IV incumbents were not requesting reclassification, the argument that a thorough comparison and review could have been accomplished within 8 days, when the statutory standard is 45 days, is completely unreasonable. Further, if the

APPEAL OF SUPERVISORS III, Office of Child Support Enforcement
Docket #89-C-38 and #89-C-40
Response to Appellants' Motion for Reconsideration and Rehearing

page 3

Division of Personnel were to have completed such review and accomplished the exchange of information between the parties within 72 hours of the hearing as required by the Board's procedural rules, the Division would have had only three working days in which to complete a review and comparison of three levels of Supervisor positions, Supervisors II, III and IV. Based upon the foregoing, the Board declines to reverse its earlier order on the basis of information which was not timely filed with either the Board or the Division of Personnel.

In their request for reconsideration, the appellants again argue that "...the only distinctions between Supervisor IV and Supervisor III are within the attributes of Education and Supervision. One of the primary areas of change necessitating this request for reclassification by the incumbents was within the area of Supervision. ... In the ten child support offices each Supervisor, regardless of the currently assigned level, has equal responsibility to insure compliance with governing laws and to supervise subordinate professionals. This meets the criteria for the degree, 60 points, outlined in the Evaluation Manual, State of New Hampshire." (SEA letter of December 21, 1990, page 2)

The appellants have reiterated their earlier argument in support of increasing the attribute of Supervision from the 4th to the 5th degree, but have not offered a substantive reason for the Board to find that its earlier order was either unreasonable or unlawful. While it is clear that the appellants disagree with the Board's findings, their disagreement does not provide a substantive ground upon which to request that the Board reverse its earlier order. On the basis of the testimony and evidence received, the Board found that the appellants supervisory responsibilities are properly rated at the 4th degree. That finding is affirmed, and appellants' request for reconsideration on that basis is denied.

Finally, the appellants argue that "The Division of Human Services firmly believes that the minimum requirements to become a supervisor of a local Child Support Enforcement Office falls within those specified by the position specification of Supervisor IV. The Division of Human Services does not believe the required functioning of supervisors currently classified as II and III to be of entry level." Again, the appellants rely upon a presumption that the Board agrees with their contention that all Child Support Supervisors function at the same level, and that Supervisor IV positions are properly allocated at salary grade 24. Inasmuch as the Board has already declined to make such a finding, and in the absence of sufficient evidence or argument to support a conclusion that its earlier order was either unreasonable or unlawful, the Board declines to reverse its decision of December 7, 1990.

APPEAL OF SUPERVISORS III, Office of Child Support Enforcement
Docket #89-C-38 and #89-C-40
Response to Appellants' Motion for Reconsideration and Rehearing

page . 4

Based upon the foregoing, the Board voted unanimously to affirm its order of December 7, 1990, and therefore denies appellants' Motion(s) for Reconsideration.

THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Acting Chairman



Robert J. Johnson

cc: Stephen J. McCormack, SEA Field Representative
Jan D. Beauchesne, Human Resource Coordinator, C.O.M.B./H.H.S.
Robert V. Pliskin, Director, Division of Human Services
Virginia A. Vogel, Director of Personnel
Civil Bureau, Office of the Attorney General

State of New Hampshire

WPPID623



PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF SUPERVISORS III (Office of Child Support Enforcement) Docket #89-C-38 and #89-C-40

Department of Health and Human Services

December 7, 1990

The New Hampshire Personnel Appeals Board (Bennett, Johnson and Rule) met Wednesday, May 23, 1990, to hear the appeal of Supervisor III incumbents in the Office of Child Support Enforcement, Department of Health and Human Services. The appellants were represented by SEA Field Representative Stephen J. McCormack. Director Virginia Vogel appeared on behalf of the Division of Personnel.

Appellants Goulet, Leahy and Roy are currently employed in positions of Supervisor III, salary grade 22. Appellant Koontz is classified as a Supervisor II, salary grade 20. All of the appellants, and the remaining incumbents classified at Supervisor III, have asked that their positions be reclassified to Supervisor IV, salary grade 24.

In support of their appeal, the appellants ask that the following job attributes be adjusted: Education, Errors, Personal Relationships, Supervision and Working Conditions. The appellants also argued that they are performing the same work as incumbents currently classified as Supervisor IV.

With regard to appellants' argument that they work at the same level as Supervisor IV incumbents, the Board has no actual evidence of what the Supervisor IV incumbents were responsible for at the time these requests for reclassification were made; therefore, the Board is hard pressed to find that their responsibilities are identical. The Board notes for the record that the Division of Personnel had requested that Supervisor IV incumbents in the Office of Child Support Services complete job classification questionnaires for comparison with the Supervisor III and II incumbents. The requested forms were not completed, however, so no viable comparison can be made.

In reviewing the points allocated to the various job evaluation factors in the Evaluation Manual of the Division of Personnel, Supervisors II, III and IV are all allocated at the 7th degree, or 100 points, for the attribute "Education". The 7th degree is defined in the Evaluation Manual as requiring "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."

The "Experience" attribute for Supervisors II, III and IV is rated at 80, 80 and 100 points respectively. The 7th degree (80 points) at which the Supervisor II and III positions are allocated requires incumbents to possess 5 or 6 years of relevant experience. The 8th degree (100 points) at which the Supervisor IV position is allocated requires the incumbent to have 7 or 8 years' relevant experience.

Mr. McCormack has suggested that the Experience attribute need not be addressed, inasmuch as there is an equivalency in the job specification for education and experience. The Board does not agree. Positions are classified based upon the minimum level of skill and training an employee must possess to satisfactorily perform at entry level in the position. Although the appellants in this particular appeal may all possess sufficient education and experience to qualify for the 7th degree in "Education" and the 8th degree in "Experience", or some equivalent combination of education and experience, that does not necessarily mean that an employee at entry level in either the Supervisor II or III classification would require that same combination of education and experience. The appellants did not provide sufficient evidence that satisfactory performance at the level of Supervisor II or III at entry level could be contingent upon a combination of education and experience equivalent to that required of incumbents in the classification of Supervisor IV.

The attribute of "Errors" is rated at the 5th degree (60 points) for both the classifications Supervisor III and IV, while the Supervisor II position is rated at the 4th degree (40 points) in this attribute. The Board will not address a comparison between Supervisor III and IV since they share the same point assignment for this factor. The Supervisor II classification held by Mr. Koontz can not realistically be compared with the other positions, as he admitted being compensated temporarily at a grade 22 based upon his current assignment. His temporary assignment at the higher grade is not indicative of what his duties would be if not so assigned.

"Personal Relationships" is rated at the 6th, or highest degree (70 points) in both the Supervisor III and IV classifications. Supervisor II is rated at the 5th degree (50 points). Again, since Mr. Koontz's appeal is based upon duty assignments he performed while being compensated at the same rate of pay as a Supervisor III, there is little to be gained by comparing his job assignments with incumbents classified as either Supervisor III or Supervisor IV.

Supervisors II and III are rated at the 4th degree (40 points) for the attribute "Supervision". The Evaluation Manual defines this level of supervision as involving "...responsibility for assigning work, discipline, solving work problems, methods of operation, reviewing work of subordinates for accuracy, and also for the quality and quantity of performance. Requires supervision and administration 75% to 100% of the time." At the Supervisor IV level, this attribute is rated at the 5th degree (60 points) and is defined as "Responsible for organizing and establishing procedures of a group of subordinates, developing methods, determining flow of work, and assigning

duties so as to accomplish and insure the quality and quantity of work performed at a high level of technical, professional, or scientific competence."

Based upon the information contained in the incumbents' classification questionnaires, the Board finds that the Supervisor III positions are properly allocated at the 4th degree. The questionnaires described policy development, and establishment of procedures and work methods as a task undertaken with the assistance of regional administrators and program administration. The Board did not find, based on the information presented by the appellants, either orally or in their written presentation, that they have supervisory assignments which rise to the level of the 5th degree.

Under the attribute "Working Conditions", the appellants have not recommended assignment at the same degree allocation as the Supervisor IV classification, a recommendation which would have resulted in a decrease from the 2nd to the 1st degree for both Supervisors II and III, or a net decrease in total points allocated to both classifications of 5 points.

The Board, in consideration of the record before it, found that the appellants have not demonstrated material changes in their position responsibilities which would warrant reclassification or reallocation to Salary Grade 24. Human Services Director Pliskin, in his October 16, 1989 letter to the Board, stated:

"It is our contention that the Division of Personnel's evaluation and decision regarding the Supervisor III classification fails to adequately analyze and weigh the impact of growth factors and, as such, does not accurately measure either the true worth or the content of the job. Further, since it doesn't deal fully and realistically with the content of the job, the evaluation also fails to achieve approximate or comparable worth for similar jobs both within and outside the context of state government.

"It is important to note that the increase in complexity and scope of supervisory functions and the performance standards by which they are held accountable apply equally to all child support.

"The performance relationships are essentially identical, and all child support supervisors are held equally accountable through the same set of standards, and through the performance of comparable tasks. At issue here is the important matter of pay equity; that is equal work for equal pay in a job which has comparable worth and is measured by the same yardstick."

As the Board had previously noted, without a substantive comparison of the functions performed by Supervisor IV incumbents, the Board can not make a finding that Supervisor II, III and IV positions incumbents perform the same work. The review of the specifications for the classes of Supervisor II and III in relationship to the work described by the appellants did not persuade the Board that these positions are improperly classified or allocated.

APPEAL OF SUPERVISORS III
(Office of Child Support Enforcement)
Docket #89-C-38 and #89-C-40

Page 4

The Board would remind the appellants that an increase in the volume of work, without a demonstration that the complexity and scope of the work performed have changed materially, is not a factor in the assignment of an appropriate classification to any position in state service. Similarly, a comparison of market value to similar positions outside the context of state government is not a factor which the Board can consider in its review of a classification appeal.

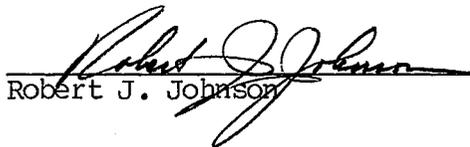
Therefore, the Board voted unanimously to deny the appeal.

The Board declined to rule on the Division of Personnel's Requests for Findings of Fact, determining that they are better considered a written expansion of the sworn testimony offered by the Director. The Board voted to grant the Division's Requests for Rulings of Law.

THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Acting Chairman



Robert J. Johnson



Lisa A. Rule

cc: Stephen J. McCormack, SEA Field Representative
Robert Pliskin, Director, Division of Human Services
Virginia A. Vogel, Director of Personnel
Jan D. Beauchesne, Human Resource Coordinator, C.O.M.B./H.H.S.