

State of New Hampshire



PERSONNEL APPEALS BOARD
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94-C-916

Unit Managers
Docket #94-C-16

Department of Corrections

March 21, 1996

The New Hampshire Personnel Appeals Board (McNicholas, Bennett and McGinley) met on Wednesday, October 18, 1995, under the authority of RSA 21-I:57, to hear the classification appeal of Unit Managers of the Department of Corrections. The appellants, who were represented at the hearing by SEA Field Representative Stephen McCormack, were appealing the February 24, 1994, decision and April 19, 1994, reconsideration decision denying their request for upgrading from salary grade 23 to salary grade 26. Virginia Lamberton, Director of Personnel, appeared on behalf of the Division of Personnel.

Mr. McCormack argued that the classification of Corrections Unit Manager should be corrected by increasing the points allocated to the evaluation factors of Knowledge, Working Conditions, Physical Demands and Complexity. He argued that accreditation standards adopted since the last review of these positions, and requirements for compliance with the provisions of the Laaman Consent Decree, have created substantial change in the Unit Managers' responsibilities.

Michael Sokolow, one of the appellants, asserted that Correctional Unit Managers are now required to work alongside Correctional Officers on the units, performing the same type of tasks they perform. He said that Unit Managers should be rated comparably for the "Physical Demand" factor, since they perform the same strenuous physical labor as their subordinates. Mr. Sokolow said that Unit Managers also are responsible for the physical condition of the units, thereby requiring them to perform such tasks as moving furniture from time to time.

Mr. Sokolow argued that Unit Managers should be entitled to the same rating as their subordinates for the factor "Working Conditions." He said that Unit Managers make rounds in the various units, and are always at risk from violent inmates. He said that he had been stabbed by an inmate during one incident, and noted that all Unit Managers are exposed to the increased risk of communicable diseases, including AIDS and Hepatitis B.

Mr. Sokolow said that Unit Managers assumed increased administrative and program responsibilities when they were required to ensure compliance with the Laaman Consent Decree and American Correctional Association Standards within their units. He said that Unit Managers must participate in developing policies and procedures at the various facilities to which they are assigned.

Ms. Lamberton said that prior to 1987, there were three levels of Corrections Unit Manager which were assigned to salary grades 17, 20 and 23 respectively. She said that each incumbent's classification and level of compensation depended upon his or her work assignment and location. Unit Managers assigned to the maximum security unit were compensated at the higher salary grades, while individuals assigned to minimum security or the half-way houses were compensated at the lower salary grades.

Ms. Lamberton stated that when her Division reviewed the Unit Manager positions in the late 1980's, she found that there was too little difference in the nature and scope of the responsibilities of positions assigned to the various facilities to warrant a difference of three salary grades between each level of Unit Manager. Further, she discovered that because employees in the more secure units tended to "burn out" faster than those assigned to other units, the incumbents were sometimes rotated between units. However, when this rotation occurred, it resulted in requests to upgrade and downgrade positions based upon the location and type of facility.

Ms. Lamberton said that in order to avoid continually upgrading and downgrading positions based on work assignment and work location, and in recognition of the similarity in duty assignments, she decided to consolidate the titles of Unit Manager I, II and III into a single classification, with the understanding that there would be periodic rotation of staff. The resulting reclassification upgraded Unit Managers I and II from salary grades 17 and 20 to salary grade 23. Unit Manager III positions were retitled Unit Manager, with no increase in salary grade. Ms. Lamberton asserted that since the previous upgrading of positions, there had been no significant changes which would warrant their reallocation.

After addressing the four factors in dispute, Ms. Lamberton submitted Proposed Findings of Fact and Rulings of Law. The Board is mindful of its obligations to respond to proposed findings of fact and rulings of law, and finds them helpful in focusing the Board's review on the material facts in dispute. However, detailed, compound findings which do not allow the Board to focus on the issues are not helpful in reaching a decision. Accordingly, the Board will

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make its own findings in this case. To the extent that the proposed findings and rulings are consistent with the Board's decision below, they are granted. Otherwise, they are denied.

Knowledge

The appellants offered insufficient evidence of changes in their positions which would warrant increasing the Knowledge factor from the fourth to the fifth level. The Technical Assistance Manual describes "Knowledge" as the combination of preparation and learning through formal education or through experience in a position which requires formal education necessary to perform specific job functions. Level five generally describes positions requiring a Master's degree, although in certain classifications, relevant experience necessary to perform satisfactorily in a position could be substituted for formal education. The appellants did not demonstrate why their positions would require a Master's degree and five years of experience in corrections or law enforcement, four of which must have been in a penal institution with three in an administrative position.

The appellants indicated that since the last review of their positions, the inmate population has grown dramatically. They also argued that implementation of alternative sentencing, as well as their participation in educational and vocational training programs for the inmate population required an adjustment in the Knowledge factor. However, the appellants did not offer material evidence of additional responsibilities resulting from the implementation of those programs, or evidence that additional education and/or training would be necessary in order to meet the minimum performance standards for the classification.

Developing an inmate classification system, for instance, might support allocation at the fifth level for knowledge and might "require logical or scientific expertise to resolve problems of a specialized or professional nature in a wide range of applications." However, utilizing that system, even to the extent that an individual might recommend an inmate classification or serve as chairperson of an inmate classification board, does not support allocation at the fifth level for this factor.. Similarly, while developing and obtaining approval for correctional accreditation standards arguably might support assignment at the fifth level for "Knowledge," ensuring that a unit within an institution complies with those standards would not support the increase.

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Working Conditions

The appellants did not persuade the Board that their positions warranted an increase to the fifth level for the "Working Conditions" factor. Corrections Unit Managers are responsible for daily unit operations, budget preparation, staff supervision to insure adequate coverage in the units, and employee performance evaluation. Unit managers also participate in programs involving inmate classification and alternatives to incarceration. Although their offices are located in the units they manage, their principal responsibilities involve planning, coordinating and supervising the inmates' activities.

Corrections Lieutenants, whose positions the appellants used for purposes of comparison, are rated at the fifth level for Working Conditions. Corrections Lieutenants are responsible for directly supervising Corrections personnel. Their class specification requires them to inspect institution housing and grounds to search out and remove items of contraband. They are required to schedule and supervise transportation of inmates. They also act as ex officio constables with general police powers (including arrest) on and off grounds when in pursuit of persons who have committed a violation in the facility complex or when being transported.

The appellants offered insufficient evidence to persuade the Board that their work assignments are sufficiently similar to that of uniformed staff to support allocation at the same level as the uniformed staff for working conditions. The Board believes that the current assignment at level three appropriately describes the conditions under which the appellants work.

Physical Demands

The appellants offered insufficient evidence to support an increase from level two to level three for the factor "Physical Demands." The appellants may, from time to time, move footlockers or furniture. However, in order to be rated at level three for this factor, the Evaluation Manual indicates that an employee must be engaged in "medium work, including continuous strenuous activities such as frequent reaching, bending or lifting." For classification purposes, "continuous" is defined as involving more than 75% of total work time. Neither the evidence nor oral argument will support the conclusion that Corrections Unit Managers are engaged in "medium work" for more than 75% of their total working time. In light of the appellants' administrative and supervisory responsibilities, the Board is not persuaded that more than 75% of their time is spent in strenuous activities.

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Complexity

The Technical Assistance Manual describes "Complexity" as a "...cumulative factor, because each level requires increasing responsibility to utilize and integrate the other eight factors in solving problems or in creating long standing agency policy." The Manual also states, "When rating the Complexity factor, the more judgement, problem solving and integration of diverse job functions the position requires, the more complex the responsibility will be considered."

The appellants have requested an increase from the fourth to the fifth level. Positions assigned to the fifth level for complexity "evaluate a combination of wide-ranging job functions to determine work procedures, to solve problems, and to reach conclusions by applying analytical, technical, or scientific thinking. This level also requires planning policies and long-term strategies, drawing conclusions based on available criteria, and evaluating the effectiveness of program objectives." (Emphasis added.)

The evidence does not support an increase in the "Complexity" factor to level 5. The appellants' classification questionnaire, submitted by them as Exhibit #7, indicates that the appellants do not approve program policies, develop and evaluate internal personnel policies, discipline employees, have final authority to approve the hiring of employees, or manage a program which affects more than one agency. Describing the level of supervision they receive, the appellants stated:

"We normally receive general un-prioritized instructions and are allowed to develop our own action plan to achieve organizational goals. Our work is generally not reviewed for duties we perform within our units. Special projects are submitted for normal review."

When asked to describe the "new and unexpected problems" which the appellants are required to solve, they listed the following:

(1) Institutional laundry problems. 2) Institutional medication distribution problems. 3) Inmate employment and pay problems. 4) Institutional record keeping standardization. 5) Serve as American Correctional Association reaccreditation monitors... 6) Institution staff problems. 7) Medical emergencies 8) Escapes from Community Corrections 9) Laaman Consent Decree compliance. 10) Community work detail assignments. 11) Law Library access and legal book distribution.

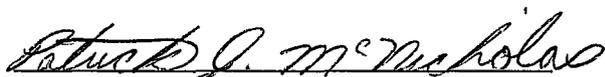
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The appellants also indicated on their classification questionnaire that they do not plan policies and long-term strategies. The Board found that the appellants' positions are more appropriately rated at the 4th level for complexity, which requires them to coordinate a combination of diverse job functions in order to integrate professional and technical agency goals.

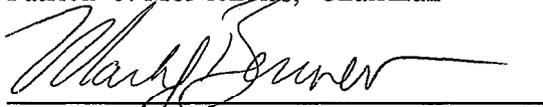
The appellants argued that compliance with the terms of the Laaman Consent Decree and with American Correctional Accreditation Standards had created significant change in their duties and responsibilities. However, the appellants offered insufficient evidence of change in their positions to persuade the Board that the four factors in dispute have been improperly assessed. Therefore, the Board voted unanimously to deny their appeal.

The Board is keenly aware of the changes occurring within the field of corrections. Alternative sentencing, expanded incarceration alternatives, increased regulation, threat of litigation, risks of communicable disease, and the ever-increasing inmate population certainly have placed growing demands upon correctional staff. However, increased demands do not necessarily result in a change in the basic nature and scope of a position, or in the level of responsibility assigned to a position classification. In the absence of material evidence to support the claim that increased demands have created substantial and material changes in the duties and responsibilities of these positions, there is insufficient evidence to support the request for reclassification.

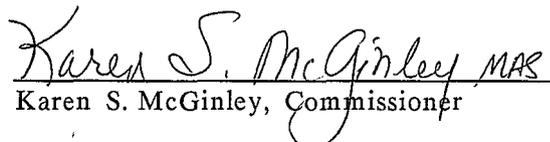
THE PERSONNEL APPEALS BOARD



Patrick J. McNicholas, Chairman



Mark J. Bennett, Commissioner



Karen S. McGinley, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Stephen McCormack, SEA Field Representative