

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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### Appeal of Jeffrey Young – Docket #2011-C-001 New Hampshire Department of Corrections

August 29, 2012

The New Hampshire Personnel Appeals Board (Wood, Johnson, Bonafide) met in public session on Wednesday, June 27, 2012, under the authority of RSA 21-I:57 and Chapters Per-A 100-200 of the NH Code of Administrative Rules, to hear the appeal of Jeffrey Young, an employee of the NH Department of Corrections. Mr. Young, who appeared *pro se*, was appealing the Division of Personnel's decision denying his request for reclassification from the position of Inventory Control Supervisor, salary grade 14, to Warehouse Supervisor, salary grade 17. Karen Hutchins, Director of Personnel, and Jennifer Elberfeld, Classification and Compensation Administrator, appeared on behalf of the Division of Personnel.

The Notice of Appeal was received by the Board on October 19, 2010. The parties were notified on July 13, 2011, that the Board had scheduled a hearing on the merits of the appeal on August 24, 2011. By letter dated July 19, 2011, Personnel Director Karen Hutchins submitted a request to postpone the hearing, stating that she was required to attend a meeting of the Governor and Executive Council and would be unavailable for the scheduled hearing. Ms. Hutchins provided a list of alternative hearing dates when she would be available. The Board rescheduled the hearing for the next open date that both parties would be available, setting the matter for a hearing on offers of proof on June 27, 2012.

The record of the hearing, which was conducted on offers of proof by the parties, consists of documents submitted by the parties prior to the hearing, notices and orders issued by the Board, the audio recording of the hearing on the merits of the appeal, and documents admitted into evidence as follows:

Appellant's Exhibits:

October 18, 2010 notice of appeal with attachments as follows:

- Memo dated 10/22/2008 to Cindy Qualls
- Letter dated 3/3/2008 from Steven McCosh and Jeffrey Young
- Position Classification Questionnaire dated 1/11/2008
- November 5, 2008 letter from A. Robert Ahlgren to Lisa Currier
- November 18, 2008 Letter from Jeffrey Young requesting reconsideration
- July 18, 2010 letter from Jeffrey Young requesting the status of his request for reconsideration
- October 4, 2010 letter from Karen Hutchins to Jeffrey Young denying his request for reconsideration
- Supplemental Job Description for Ed Heath
- Supplemental Job Description for Rocky LaPierre
- Supplemental Job Description for Karl Nilges
- Minutes and position list from a Maintenance meeting held at NCF on October 25, 2005

State's Exhibits

1. June 23, 2008 letter from Lisa Currier forwarding a request from Jeffrey Young for review and reclassification of his position
2. Appellant's current supplemental job description
3. Supplemental job description proposed by Appellant
4. Current organizational chart
5. Organizational chart proposed by the Appellant
6. Position Classification Questionnaire submitted by the Department of Corrections
7. Class specification for the position Inventory Control Supervisor
8. Class specification for the position of Warehouse Supervisor
9. Class specification for the position of Warehouse Manager I
10. Inventory Control Supervisor SJD
11. Warehouse Supervisor SJD
12. Warehouse Manager I SJD
13. Organizational Chart, Department of Corrections, Concord Warehouse
14. Factor level comparison chart
15. Decision denying request for reclassification
16. Approved SJD for Inventory Control Supervisor
17. Reconsideration request
18. Follow-up to reconsideration request
19. Personnel Director's letter denying reconsideration

Mr. Young informed the Board that he had not received the State's packet of exhibits until the Saturday before his hearing, and that some of the information provided was information he had never seen before, including the supplemental job descriptions from other agencies against which his position had been compared. Although Mr. Young did not object to including those exhibits in the record of the hearing, he asked the Board to allow him to submit several additional documents of his own in response, specifically, copies of several of the State's exhibits highlighted by the Appellant to note which position responsibilities and accountabilities he believed to be similar to his own. He also asked the Board to accept copies of two policy and procedure directives that described the warehouse at the prison in Berlin as a "stand-alone" facility similar to the warehouse at the prison in Concord.

Director Hutchins stated that her staff had not reviewed the policy and procedure directives being offered by the Appellant, as the Appellant had not supplied those documents when he originally requested reclassification of his position. The Appellant said he had referred to those documents in his original request for reclassification, and assumed that the Division of Personnel would have requested copies if necessary, since the Division of Personnel has the right to request additional information if they feel that a reclassification request is incomplete. After confirming that the Appellant had referred to those policy and procedure directives in his original reclassification request, the Board allowed those documents to be included in the record of the appeal.

Ms. Elberfeld made the following arguments and offers of proof:

1. The position now held by Mr. Young was initially classified as a Warehouseman, salary grade 10. In 2003, when that position was reviewed, it was reclassified to Inventory Control Supervisor, salary grade 14.
2. In 2008, Mr. Young submitted a request for reclassification arguing that his position was similar to the Warehouse Supervisor positions in Concord and Laconia. The Department of Corrections did not recommend the requested reclassification. (State's Exhibit 1)
3. When the Division of Personnel reviews a position, analysts are looking for evidence of changes in the scope of the position, as well as changes in the type and level of duties performed. In this case, the Division of Personnel found that the "scope of work" in the existing and proposed supplemental job descriptions were identical, and although there were changes in the wording of some accountabilities, they were very similar. The only real difference involved the addition of marking and engraving tools and maintaining a tool inventory, tasks that had previously been performed by a clerk in a lower salary grade. (State's Exhibits 2 and 3)

4. Although the Appellant supervises inmates, it differs from responsibility for supervising subordinate employees. On his position classification questionnaire, when asked to describe his level of responsibility for providing direct supervision, the Appellant wrote, "N/A."
5. The Warehouse Manager I, salary grade 16, currently assigned to the facility in Concord, used to be assigned to Laconia. Although there are similar and sometimes overlapping functions, work assigned to the position in Laconia to which the Appellant compares his position has a greater variety of responsibility and work at a higher level including supervision of subordinate maintenance personnel, monitoring security equipment, preparing requisitions and field purchase orders, writing work specifications and handling mail service.
6. The organizational charts show that the Warehouse Manager I position has a higher degree of responsibility than that assigned to the Appellant's position.
7. The revised job description (State Exhibit 16) shows a number of additional duties, but none that are at a different level than the position as currently classified. Tasks such as furniture delivery and tracking costs do not appear on the class specification, but they are consistent with the duties and responsibilities listed on the class specification for Inventory Control Supervisor.
8. There has not been sufficient change in the duties and responsibilities assigned to the Appellant's position to justify a change in the position classification or salary grade.

Mr. Young made the following arguments and offers of proof:

1. In 2003, when the Appellant's position was reclassified to its current title and grade, the Appellant and others at the prison in Berlin believed that their positions should have been reclassified to Warehouse Supervisor, salary grade 17. They decided not to appeal that decision at that time.
2. When the Appellant completed his position classification questionnaire in 2008, he was told to focus on the major aspects of the job. Although there have been changes in the position, reclassification should not depend on changes when there is evidence that the position was improperly evaluated and classified in the first place.
3. When the Division of Personnel reviewed the warehouse positions in Concord, Laconia and Berlin, the position in Laconia was reportedly assigned a higher labor grade because the incumbent worked alone without staff support, while the position in Concord was assigned a higher labor grade because the incumbent had more staff to manage. The Division of Personnel failed to explain why the position in Berlin was assigned to a lower labor grade when there is the same amount of work to be performed, but fewer staff members available to do the work.
4. The prison in Berlin runs a "stand alone" warehouse operation; the warehouse at the Laconia prison was not. The warehouse position in Laconia, which was allocated at labor grade 16, was later transferred to Concord, and a comparable position in Concord was rated at labor grade 17. Positions in Laconia and Concord were rated at labor grades two and three labor grades higher than the

Appellant's position, even though they are responsible for roughly the same duties and responsibilities.

5. At the prison warehouse in Laconia, the Warehouse Manager ordered his supplies from the warehouse in Concord. Those supplies were then delivered on a weekly basis to the facility in Laconia and distributed by warehouse staff. By comparison, the Appellant is responsible for assisting in the requisition process, receiving supplies himself and managing their distribution. The warehouse staff in Berlin also manually monitor and audit fuel usage, a task not performed by staff at the other facilities.
6. In 2006, the warehouse in Berlin instituted an automatic delivery system based on the average flow of product over a three-year period. Berlin is the only warehouse managing an automatic delivery system for supplies.

Having carefully considered the parties' evidence, arguments and offers of proof, the Board made the following findings of fact and rulings of law:

- A. According to Per 303.02 of the NH Code of Administrative Rules, a completed request for reclassification, whether submitted by the appointing authority or the position incumbent, must include, among other things, a narrative memorandum containing certain position information along with, "A thorough explanation of the reason or reasons for the request, including what precipitated the permanent change in the duties of the position to necessitate the review..." [Per 303.02 (a)(1)b.] A completed request for reclassification must also include, "A position classification questionnaire indicating the change or changes in the employee's duties which require a reallocation or reclassification of the position from one classification to another, or the development of a new classification to match the duties of the position." [Per 303.02 (a)(6)]
- B. The Appellant admits that there have been no substantial changes in his position; he believes that his position was misclassified in 2003. As a result, his request for reclassification does not, and perhaps can not, provide the information required by Per 303.02 of the NH Code of Administrative Rules, concerning any significant or substantial changes in the duties and responsibilities assigned to the position that would warrant its reclassification.
- C. A completed request for reclassification must include, "The proposed supplemental job description which has been annotated to reflect any changes in job responsibilities under Per 301.03 (j) (1)," [Per 303.02 (a)(3)] The proposed supplemental job description submitted by the Appellant is not annotated to reflect changes in job responsibilities, nor does it provide any explanation for changes to the job description itself if there have been no changes in the duties associated with the position.
- D. The classification questionnaire (State Exhibit 6) does not include a section where an appointing authority or a position incumbent can explain the reason or reasons for the request for reclassification. The Appellant's explanation appears in his cover letter, where he asserts that his

position was misclassified in 2003. The Board agreed to hear the appeal on the basis of Appellant's claim of misclassification stated in his cover letter.

- E. In order to meet the minimum education requirements for appointment to a position of Inventory Control Supervisor, an applicant must have graduated from high school or have obtained a G.E.D. equivalent. By comparison, in order to qualify for appointment as a Warehouse Supervisor, an applicant would need an Associate's degree from a recognized college or technical school with a major study in business administration or accounting. For either classification, each additional year of approved formal education may be substituted for one year of required work experience. (State's Exhibits 7 and 8) The Appellant failed to provide an explanation why the duties and responsibilities of the position he occupies would require an applicant to possess an Associate's degree in business administration or accounting.
- F. In order to meet the minimum work experience requirements for appointment to a position of Inventory Control Supervisor, an applicant would need four years of experience in stock control work or in warehousing methods, procedures and equipment concerned with the receipt, storage and shipment of merchandise. For appointment to a position of Warehouse Supervisor, an applicant would need three years of experience in receiving, storing and issuing a large variety of stores and maintaining computerized records. At least two years of that experience must have been in a supervisory capacity. (State's Exhibits 7 and 8) None of the evidence submitted by the Appellant or the Division of Personnel indicates that the Appellant's position involves maintaining computerized records or supervising subordinate staff, or that the duties and responsibilities of the position would warrant an increase in the required level of work experience.
- G. Classified positions are rated on nine individual evaluation "factors" including Skill, Knowledge, Impact, Supervision/Management, Working Conditions, Physical Demands, Communications, Complexity and Independent Action. The classifications of Inventory Control Supervisor and Warehouse Supervisor have identical ratings for six of the nine factors, including Skill, Supervision/Management, Working Conditions, Physical Demands, Complexity and Independent Action. The Warehouse Supervisor classification is rated one level higher than the Inventory Control Supervisor position for the factors Knowledge, Impact, and Communications. (State Exhibit 14) Neither the request for reclassification nor the response from the Division of Personnel discusses any of the nine evaluation factors, even though the rating for those factors was submitted by the Division of Personnel as evidence in this hearing supporting its decision denying the Appellant's request for reclassification. (State Exhibit 14)

#### Decision and Order

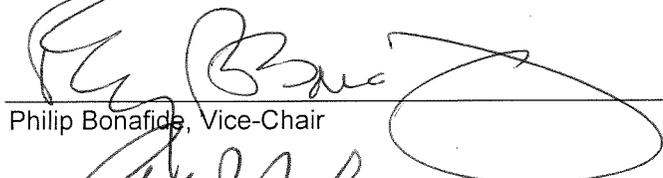
In appeals involving the reclassification or reallocation of a position, Per-A 207.12 (f) requires the Appellant to prove, by a preponderance of the evidence, that, "(1) The duties of the position have

changed sufficiently to warrant reclassification or reallocation; or (2) The position was improperly allocated or classified in accordance with the director's rules or the classification plan.”

In challenging the Director's decision, the burden of proof rests with the party who filed the appeal. In order to prevail in this case, the Appellant needed to produce evidence to persuade the Board that his position was improperly allocated or classified based on the scope of work, the characteristic duties of the position, and the specific work assigned to the Appellant. In the absence of such evidence, the Board voted unanimously to DENY the appeal, without prejudice so the Appellant may have the opportunity to submit a new request for reclassification in the future and provide a more complete, detailed explanation of his duties and responsibilities for review and consideration by his own department and by the Division of Personnel.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD

  
\_\_\_\_\_  
Patrick Wood, Chair

  
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Philip Bonafide, Vice-Chair

  
\_\_\_\_\_  
Robert Johnson, Commissioner

cc: Karen Hutchins, Director of Personnel  
Jennifer Elberfeld, Classification and Compensation Administrator  
Jeffrey Young, NCF Inventory Control Supervisor  
Lisa Carrier, DOC Human Resources Administrator