

# State of New Hampshire

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## PERSONNEL APPEALS BOARD

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### APPEAL OF WILLIAM E. EVANS Docket #89-C-5

Department of Environmental Services  
Division of Water Supply and Pollution Control  
Subsurface Systems Bureau

January 17, 1991

The New Hampshire Personnel Appeals Board (McNicholas and Johnson) met Wednesday, November 8, 1989, to hear the classification appeal of William E. Evans, Administrator of the Subsurface Systems Bureau, Department of Environmental Services. Mr. Evans appeared pro se. Also appearing on his behalf was Randolph Monti, Administrator of the Winnepesaukee River Basin Project and John Collins, Acting Director of the Division of Water Supply and Pollution Control. The Board, at the appellant's request, also included in the record Commissioner Robert Varney's testimony from Bernard Lucey's classification hearing held earlier that day. Virginia A. Vogel, Director of the Division of Personnel, appeared on behalf of the Division.

Mr. Evans' appeal arises from a reconsideration decision of the Director of Personnel dated April 7, 1989, denying the Department's request to reclassify Mr. Evans' position of Sanitary Engineer III, salary grade 30 to Administrator IV, salary grade 32. The appellant had originally requested that his position be reallocated to salary grade 34. In its April 7, 1989 decision, the Division of Personnel approved reclassification of his position from Sanitary Engineer III to Administrator III, without increasing the salary grade from 30 to 32.

Mr. Evans submitted his initial arguments in support of his appeal by letter to the Board dated April 20, 1989, and supplemental information dated May 11, 1989. In those submissions, Mr. Evans wrote that during the spring of 1987, Commissioner Alden Howard had supported upgrading his position from Sanitary Engineer III, salary grade 30, to salary grade 34. Mr. Evans argued that "Because of the size of the Bureau (Subsurface Systems), and the responsibility and technical requirements of the position, it was their opinion that the requested upgrade should be to a Labor Grade 34. It was also apparent to them that there existed a Labor Grade disparity between [his] position as Bureau Administrator and other Bureau Administrators within the Division." In his classification questionnaire (Appellant's Exhibit A) Mr. Evans indicated his position "...heads the largest bureau within the organization with annual revenues to the State's general fund of approximately \$1,500,000".

In his letter of April 20, 1989, *Mr. Evans* cited the following grounds for his appeal:

1. "Sufficient consideration was not given to the qualifications and to the degree of responsibility that the present job requires."
2. "...the complexity and unique nature of the position, Administrator, Subsurface Systems Bureau has been underrated in regard to its attributes under the existing personnel system. The position requires substantial training, skill and experience in the areas of civil/sanitary engineering and administration."
3. "It is important to note that this Agency requires a minimum of 10-12 years of experience at this position level and that supervision requirements are clearly at a high level of administrative responsibility."

*Mr. Evans* argued that the Administrator classification itself "is designed to accommodate those with only general education and experience requirements. This is evident when one considers what happens in the case when trying to classify someone under the Administrator position requirements. They are generic at best and do not consider the unique technical and educational requirements necessary to properly classify upper level engineering administration."

On February 8, 1989, Alden Howard, formerly Commissioner of the Department of Environmental Services, requested that the Division of Personnel reconsider classification decisions affecting three positions in his Department, including that held by William Evans as Administrator of the Subsurface Systems Bureau. Commissioner Howard argued that *Mr. Evans'* position headed a bureau whose "...scope, complexity and volume have grown enormously over the past few years". He also argued that "...many of our senior engineers are labor grades 29, 30 and 31 so an administrator managing a bureau with these senior level people should be at a higher grade".

In his testimony before the Board, the appellant indicated that the eventual request by his department for reclassification to Administrator IV, salary grade 32, was a "compromise" offered in light of the Division of Personnel's refusal to consider allocating his position at salary grade 34. That request was denied by the Director of Personnel in her letter of January 25, 1989, and again by her Division on April 7, 1989, in response to the Department's request for reconsideration.

As part of the response to the Department of Environmental Services, the Director of Personnel described the manner in which the classification review was conducted, including a comparison of *Mr. Evans'* position to similar positions in his own agency and in other agencies statewide. In his opening remarks to the Board, *Mr. Evans* stated his objection to any comparison with other agencies, arguing such comparisons were "ludicrous". Instead, he suggested that the only appropriate review was one which considered the salary grades of other bureau administration positions assigned to the Department of Environmental Services in general, and the Water Supply Pollution Control Division in particular. He argued that such a comparison would show his position grossly undervalued.

As **Mr.** Evans noted in his submissions to the Board, the various evaluation attributes and accompanying point-to-grade table applies only to positions allocated at salary grade 30 or lower. Reclassification of positions over salary grade 30 must be accomplished without the benefit of definitions and descriptions for the various evaluation attributes, and can only be undertaken by comparing the position to ostensibly similar positions in State government. He provided information, as an addendum to his classification questionnaire, concerning other engineer/administrator types of positions within the Department of Transportation. He also provided a list of position classifications and salary grades within the various bureaus in his own division.

Having reviewed the information provided by **Mr.** Evans in his classification questionnaire and the information submitted in support of his appeal, the Board compared the material provided therein with the Evaluation Manual in order to determine if **Mr.** Evans' duties and responsibilities exceeded those defined by the classification Administrator III.

The Administrator III classification is allocated at the 7th degree (100 points) for the Education attribute, and at the 8th degree (100 pints) for the attribute Experience. In his written submissions, **Mr.** Evans highlighted the requirement that a person in his position requires an extensive technical background, and 10 to 12 years experience. The Administrator III classification approved by the Division of Personnel for **Mr.** Evans' position requires a minimum of formal educational preparation for the position of "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." ~~Were~~ this position to be rated at the 8th degree, it would require an educational background equivalent to a Master's degree plus 30 additional hours of approved graduate study. At the maximum degree allocation for the education attribute, an individual's educational background would have to be equivalent to three or four years of graduate work leading to a M.D. or Ph.D. degree".

In spite of the technical nature of the work performed by the appellant, the Board did not find that his duties and responsibilities, as described in his written and oral presentation, would require an individual, at entry level in the position, to have formal educational training in excess of that described under the 7th degree in the Education attribute.

The Evaluation Manual defines "Experience" as "the amount of time spent in practical preparation in the same or related work [emphasis added]. It is the time required by a person to satisfactorily perform the work [of sufficient quality, output, and performance standards as to insure continued employment] and does not include any time of the employees spent beyond this. Technical ability and fundamental knowledge should not be included in this factor." **Mr.** Evans has suggested that the Administrator III classification, which rates this attribute at the 8th degree, requiring 7 or 8 years' experience, fails to address the requirement that an individual possess the "ability to make rational and technically accurate judgments with regard to [developments in the field of subsurface systems engineering and permitting]..."

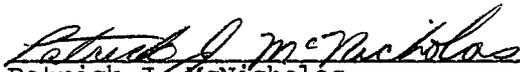
The Board does not agree. Again, the position must be considered in light of the minimum requirements for individuals at entry level in the position under consideration. Obviously, the Department of Environmental Services derives enormous benefit from Mr. Evans' training and experience. The appellant did not provide sufficient evidence, however, to persuade the Board that the position at entry level would require an individual to possess more than a bachelor's degree in Sanitary Engineering, one or two years of graduate study or its equivalent, 8 or more years' experience in the same or related work.

With regard to the other 7 evaluation attributes, Mr. Evans provided insufficient evidence to warrant amendment or increase of any of those attributes, and insufficient evidence to support his basic argument that the classification of Administrator III does not, in a general sense, describe the nature and scope of his responsibilities as Administrator of the Subsurface Systems Bureau within the Division of Water Supply and Pollution Control.

The Board gave careful consideration to Mr. Evans' assertion that whether compared to positions within his own agency, or in agencies throughout State services, his position require the ~~same~~ degree of technical expertise and administrative autonomy as those which are compensated at significantly higher salary grades than Administrator III, salary grade 30. In the absence of material evidence to support such a finding, the Board is more inclined to believe that the positions Mr. Evans has chosen for comparative purposes may be over-graded, rather than that his position is under-graded.

The Board voted to grant the Division of Personnel's requests for findings of fact to the extent that they are addressed in the decision above. The Board further voted to grant the Division's requests for rulings of law. Accordingly, the Board denied Mr. Evans' request that his position be reallocated to Administrator IV, salary grade 32.

THE PERSONNEL APPEALS BOARD

  
Patrick J. McNicholas

  
Robert J. Johnson

cc: William Evans, Administrator  
Subsurface Systems Bureau

Robert Varney, Commissioner  
Department of Environmental Services

Virginia Vogel, Director  
Division of Personnel

Civil Bureau - Attorney General's Office