

# State of New Hampshire

PERSONNEL APPEALS BOARD  
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## RESPONSE TO MOTION FOR RECONSIDERATION Appeal of Peter Merkes Water Resources

September 16, 1988

The New Hampshire Personnel Appeals Board, Commissioners Platt, Allard and Cushman sitting, met on Tuesday, July 12, 1988. At that meeting, the Board reviewed the Motion for Reconsideration filed by SEA Field Representative Jean Chellis on November 23, 1987 in the classification appeal of Peter Merkes, Civil Engineer IV, Water Resources Division. Commissioner Platt did not participate in the discussion or the decision.

The appellant requested that the Board reconsider the Civil Engineer V job specification, arguing that it, more than the points in the evaluation of position attributes, should be considered in determining the proper classification of the appellant's position. In his motion for reconsideration, the appellant argued that the Board was "unjustly penalizing Mr. Merkes for the organizational structure within which he works," by finding that the appellant's position is not responsible for the making of decisions that serve as guides and general directives to the department as a whole." The appellant argued that Civil Engineer V positions in the Division of Water Supply and Pollution Control and in the Division of Waste Management "do no more than Mr. Merkes in the guiding and directing of the department as a whole," and that the Board, in its deliberations, "may have focused too narrowly on the point definitions"

Finally, in a separate submission to the Board dated November 24, 1987, Delbert Downing, Director of the Division of Water Resources, argued that the Board had failed to consider comparisons between the force account crew supervised by Mr. Merkes and similar crews throughout the state, and that three such crews are supervised by employees holding salary grade 29 and above. Mr. Downing also argued that "during the past year Mr. Merkes has several new staff members added to his Bureau including an Assistant Civil Engineer IV whom he supervises, a Maintenance Mechanic I, two Carpenter I's and an Engineering Technician III. The Personnel Appeals Board allowed this testimony to become part of the record however it was never acknowledged in their decision."

The appeal of Mr. Merkes related to a September 3, 1986 decision by the Director of Personnel denying the appellant reclassification to the position of Civil Engineer V, salary grade 29. Therefore, regardless of its appearance in the record of the hearing, the Board found that information relating to additional job functions or supervisory responsibilities added since the

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September, 1986 review decision could not be considered by the Board in its deliberations on the appropriateness of the original classification decision.

The Board found the appellant's argument that it had "focused too narrowly" on the point evaluation for the various position attributes unpersuasive. In his original classification appeal, the appellant had provided the Board with current and proposed position attribute evaluation factors for consideration. Having reviewed both the evaluation manual and the position specifications for Civil Engineer IV and Civil Engineer V, as well as the evidence presented at the hearing, the Board continued to find the appellant's position properly classified as Civil Engineer IV, salary grade 26. Further, the Board found that it must consider the organizational structure of the agency for which the appellant is employed when making its original decision, and in considering the request for reconsideration.

In reviewing classification decisions of the Division of Personnel, the Board is bound by the same evaluation criteria utilized in the classification of a position in state service. Agency organization, supervisory structure and the nature of the positions associated with the position under review are a necessary part of the classification process and cannot be over-looked or ignored by the Board. The Board fully appreciates the extent to which the State may benefit from the talent or dedication of an employee, or the exemplary fashion in which he may perform his position responsibilities. The Board cannot, however, take such factors into consideration when reviewing the appropriateness of a position classification.

Each of the issues which the appellant requested the Board to reconsider were addressed in the original appeal decision. Based upon the foregoing, the Board voted to deny the request for reconsideration. The Board did vote, however, to allow the appellant to file another request for position review with the Division of Personnel, and to order that the mandatory one-year period between appeals to the Director be waived in consideration of the length of time that this appeal has been pending review and reconsideration.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE  
Executive Secretary

cc: Jean Chellis, SEA Field Representative

Virginia A. Vogel, Director of Personnel

Delbert Downing, Chairman  
Water Resources Board