

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF GEORGE E. NAZER, JR., ADMINISTRATOR III

Department of Employment Security

Docket #96-C-3

June 11, 1997

The New Hampshire Personnel Appeals Board (Bennett, Johnson and Rule) met Wednesday, February 26, 1997, under the authority of RSA 21-I:57, to hear the classification appeal of George Nazer, an employee of the Department of Employment Security. Mr. Nazer was represented at the hearing by D.E.S. Commissioner John Ratoff. Michael McAulay, Supervisor of Classifications for the Division of Personnel, appeared on behalf of the Division. Mr. Nazer was appealing the Division of Personnel's decision denying his request for reclassification from Administrator III, salary grade 30, to Administrator IV, salary grade 32.

On the appellant's behalf, Mr. Ratoff argued that the Division of Personnel incorrectly concluded that Mr. Nazer's position lacked the level of "impact" attributed to other bureau administrators within his department, and that the appellant's supervisory responsibilities within a "centralized" bureau were not as extensive as those associated with supervising statewide field offices. Commissioner Ratoff characterized the Division of Personnel's conclusion that Mr. Nazer was performing more work, but not more complex work, as "specious." He argued that the accountabilities approved by the Division of Personnel for Mr. Nazer's Supplemental Job Description were almost indistinguishable from those of the other salary grade 32 Administrators assigned to the Department of Employment Security, and his responsibilities as complex as theirs.

Mr. Ratoff argued that Mr. Nazer was responsible for management of four new national initiatives, including "one-stop" labor market initiatives, ALMIS, wage determination for migrant seasonal workers and establishment of eligibility for legal aliens, and Profiling and Projections, involving creation of employee "profiles" of laid-off workers to determine how time, location and training will affect an individual's employability in both the short and the long term. He argued that the Division's analysis was wrong in simply defining this as more work, when in fact it was new work and more complex work.

Mr. Ratoff argued that in his position, Mr. Nazer required a Master's degree, a factor which he argued the Division of Personnel failed to consider in its analysis of his position. He also argued that Mr. Nazer had the same policy-setting authority as other administrators who are being compensated at a salary grade 32.

Mr. Ratoff argued that where other bureaus within his department can rely on "formula" funding, Mr. Nazer must negotiate contracts with the Bureau of Labor Statistics for his own funding. He noted that the Congress of the United States recognized the growing importance of labor market analysis and reporting, allocating approximately 40% more funding for ELMI while decreasing funding for the department's other functions by approximately 12%.

Mr. McAulay said that the Division of Personnel reviewed Mr. Nazer's position in 1985, reallocating it from salary grade 25 to salary grade 26. He said the position was reviewed again in 1989 and in 1991. He said that although the Division of Personnel was not persuaded after the 1991 review that changes in the position were significant enough to warrant further reclassification, the Division reluctantly agreed to reclassify Mr. Nazer's position to Administrator III, salary grade 30.

Mr. McAulay argued that the Administrator IV classification is reserved for the most complicated administrative assignments, and that in the Division's opinion, Mr. Nazer's position was not as complex as other Administrator IV positions statewide. He also argued that when comparing the duties and responsibilities of Mr. Nazer's position with Administrator IV positions in his own agency, particularly with respect to the number and types of positions reporting to the bureau Administrator, it was clear that Mr. Nazer's position was not at the same level of complexity. Mr.

McAulay also noted that while Mr. Nazer's bureau is centralized, the other DES bureau administrators must supervise programs and staff in field offices throughout the state.

Mr. McAulay also argued that although Mr. Nazer's position required him to possess a Master's degree, that requirement alone was insufficient to justify the requested reallocation. While acknowledging the fact that Mr. Nazer is responsible for producing a greater volume and variety of work products, he argued that his duty assignments are accurately described by the Administrator III classification. Mr. McAulay argued that in order in order to support reclassification to Administrator IV, the agency would need to provide evidence of significant change in the appellant's level of accountability since the 1991 upgrading, and evidence of substantially increased responsibility for achievement of the Department's over-all mission. He argued that the Division's review did not disclose change of that magnitude and therefore denied the requested reclassification.

At first blush, the appellant's argument that his position should be classified and compensated consistent with the other two bureau administrators' seems quite reasonable. However, upon review of the appellant's duties and responsibilities, as well as the changes which the appellant cited in support of his reclassification request, the Board found that the appellant's position is properly classified as Administrator III, salary grade 30.

As the appellant points out, evaluation of the factors of "Supervision" and "Impact" represent the only difference in the evaluation of the classifications of Administrator III and Administrator N . For the Supervision Factor, Administrator IV positions are allocated at the sixth, or highest, level, defined as follows:

Requires agency-wide administrative supervision, including the responsibility for developing and evaluating internal personnel policies. This level also involves the administrative management of a program which affects more than one agency, including overseeing the interaction of agency employees or policies to accomplish organizational objectives or goals.

¹ The Board makes no findings with respect the correct classification of the administrators assigned to the Employment Services or Unemployment Compensation bureaus.

Mi-. Nazer's position is rated at the fifth level, described in the class specification as follows:

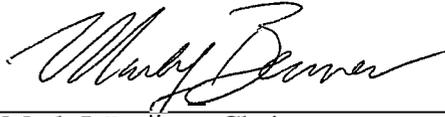
Requires delegating supervisory or program responsibilities to subordinate managers, with overall accountability for hiring employees and approving program policies. The supervisor in this position assumes responsibility for an organizational unit, including developing long-range plans, analyzing staffing requirements, and formulating systemwide policies and procedures.

In reviewing Mr. Nazer's position classification questionnaire, the Board found that the appellant is responsible for supervising positions classified as Supervisor IV, Economist, Research Analyst, Labor Market Analyst I, Labor Market Analyst II, Statistical Assistant, Statistical Clerk II and Word Processor Operator I and II. Those positions are assigned to work units for reporting employment and wages, current employment statistics, local area employment statistics, occupational employment statistics, mass layoff statistics, profiling and projections, administrative reporting, and research. While the evidence may support assignment of the "Supervision" factor at the fifth level, the Board was not persuaded that Mi-. Nazer's supervisory responsibilities warrant an increase to the sixth level. In spite of Commissioner Ratoff's assertion that Mi-. Nazer has the same policy-setting authority as the other two bureau administrators, the Board did not find sufficient evidence that Mr. Nazer is responsible for "agency-wide administrative supervision, including the responsibility for developing and evaluating internal personnel policies.."

With respect to the "Impact" factor, the Board believes that points assigned to the Administrator III classification already compensate the appellant for the work he performs. The Board was not persuaded that the appellant has, "...overall administrative responsibility for achieving agency objectives by directing all aspects of operations management..." as defined by the sixth degree for this factor. In his current classification, the position's level of impact is defined as, "...responsibility for achieving maior aspects of long-range agency obiectives by planning short- and long-term organizational goals, reviewing recommendations for procedural changes, and developing or revising program policies." The Board considers this factor more descriptive of the appellant's actual level of responsibility.

Accordingly, on the evidence, argument and offers of proof, the Board voted unanimously to deny Mr. Nazer's appeal, finding that his duties and responsibilities do no warrant reallocation to Administrator IV, salary grade 32.

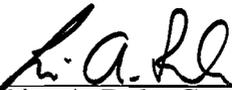
THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Chairman



Robert J. Johnson, Commissioner



Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director, Division of Personnel
John Ratoff, Commissioner, Department of Employment Security
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State of New Hampshire



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APPEAL OF GEORGE E. NAZER, JR., ADMINISTRATOR III

Department of Employment Security

February 28, 1996

The New Hampshire Personnel Appeals Board (McNicholas and Rule) met Wednesday, February 28, 1996, under the authority of RSA 21-I:57 and RSA 541-A, to consider the Department of Employment Security's February 1, 1996, Motion for Discovery, and the Personnel Division's February 9, 1996, Objection to that Motion, in the above-captioned classification appeal.

Per-A 204.02 (b) of the Rules of the Personnel Appeals Board states, in part, "In exceptional cases, either party may request that the Board order formal discovery," and that party "...shall set forth those factors which it believes support its request for additional discovery."

The Appellant did not persuade the Board that his appeal is an exceptional case. There is neither evidence nor argument to suggest that his request for reclassification and subsequent position review were handled any differently than any other review, or that he was deprived of any information during that process to which he was otherwise entitled.

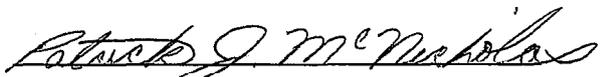
The appellant has submitted extensive written arguments, and more than 500 pages of documentation supporting his request for reallocation from Administrator III, salary grade 30, to Administrator IV, salary grade 32. The response which the Director of Personnel submitted to the Board consists of 11 exhibits, including classification questionnaires, organizational charts, and correspondence between the Division of Personnel and Department of Employment Security concerning the review and classification of Mr. Nazer's position. Given the volume of material, and the amount of detail contained therein, the Board does not believe that the appellant is lacking any of the information necessary to explain the duties and responsibilities of his position and why he believes that his position is improperly classified as Administrator III, salary grade 30.

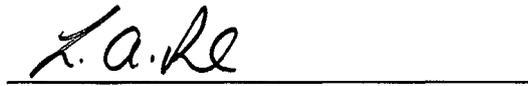
Per-A 204.02 (c) also provides that, "The Board may, with or without hearing, grant, in whole or in part, any discovery motion upon such terms as are just and equitable." Having reviewed the factors which the Appellant cited in support of his Motion for Discovery, the Board is not persuaded that a hearing is necessary in order to understand or decide the motion. Accordingly, his request for a hearing on the Motion is denied.

The Board also voted to deny the Motion for Discovery. The appellant did not persuade the Board that his appeal is exceptional, or that he will be unable to sustain his burden of proof, as defined by Per-A 208.02, without the materials he has sought to discover.

If the Board determines at a hearing on the merits that it has insufficient information to understand and decide the appeal, Per-A 203.09 allows the Board, on its own motion or the motion of any party, to require either party to produce such additional evidence as the Board deems necessary.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director, Division of Personnel
Charles Bradley, III, Counsel, Department of Employment Security