DEWANA PAULEY,

Grievant,

v. **Docket No. 94-CORR-1148**

DIVISION OF CORRECTIONS/CHARLESTON
WORK AND STUDY RELEASE CENTER
and DIVISION OF PERSONNEL,

Respondents.

D E C I S I O N

Ms. Dewana Pauley, Grievant, grieves her classification as an Office Assistant III ("OA III") and argues she should be reclassified as a Secretary I because she performs the duties of that classification. Division of Corrections ("DOC") and Division of Personnel ("DOP") argue Grievant is correctly classified, and that the OA III classification is the "best fit" for her duties. Further, Respondents argue the duties she performs are "process driven or required by the organization, as opposed to work directly related to one individual." This grievance was waived at Levels I and II and denied at Level III. Grievant appealed to Level IV, and a hearing was held on June 8, 1995. This case became mature for decision on August 17, 1995, the deadline for the submission of proposed findings of fact and conclusions of law.

The pertinent sections of the classification specifications at issue are written below:

OFFICE ASSISTANT III

Nature of Work:

Under general supervision, performs advanced level, responsible and complex clerical tasks of a complicated nature involving interpretation and application of policies and practices. Interprets office procedures, rules and regulations. May function as a lead worker for clerical positions. Performs related work as required.

Distinguishing Characteristics:

Performs tasks requiring interpretation and adaptation of office procedures, policies, and practices. A significant characteristic of this level is a job-inherent latitude of action to communicate agency policy to a wide variety of people, ranging from board members, federal auditors, officials, to the general public.

Examples of Work

Analyzes and audits invoices, bills, orders, forms, reports and documents for accuracy and initiates correction of errors.

Maintains, processes, sorts and files documents numerically, alphabetically, or according to other predetermined classification criteria; researches files for data and gathers information or statistics such as materials used or payroll information.

Types a variety of documents from verbal instruction, written or voice recorded dictation.

Prepares and processes a variety of personnel information and payroll documentation.

Plans, organizes, assigns and checks work of lower level clerical employees.

Trains new employees in proper work methods and procedures.

Answers telephone, screens calls, takes messages and complaints and gives information to the caller regarding the services and procedures of the organizational unit.

Receives, sorts and distributes incoming and outgoing mail.

Operates office equipment such as electrical calculator, copying machine or other machines.

Posts records of transactions, attendance, etc., and writes reports.

Files records and reports.

May operate a VDT using a set of standard commands, screens, menus and help instructions to enter, access and update or manipulate data in the performance of a variety of clerical duties; may run reports from the database and analyze data for management.

SECRETARY I

Nature of Work

Under general supervision, at the full-performance level, relieves supervisor of clerical and minor administrative duties, exercising discretion and independent judgment. Necessity for dictation, familiarity with word processors, and other special requirements vary depending

upon supervisor's preference. Performs related work as required.

Distinguishing Characteristics

This class is distinguished from the Office Assistant series by the assignment of support duties to a specific individual overseeing a section, or a division. The incumbent composes routine correspondence for the supervisor, screens calls and visitors and responds to inquiries requesting knowledge regarding office procedure, policy and guidelines, and program information. The position has limited authority to speak for the supervisor.

At this level, the work requires the knowledge necessary to complete complex procedural assignments. Incumbent determines appropriate procedures from among a variety of resources, methods, and processes. Incumbent is responsible for his/her own work, and may assign and direct the work of others. Although some tasks are defined and self-explanatory, the objectives, priorities, and deadlines are made by the supervisor. Work is reviewed, usually upon completion, for conformance to guidelines. Contacts at this level are frequent and often non-routine and/or of a confidential or sensitive nature, requiring tact and the ability to judge which inquiries can be answered or must be referred.

Examples of Work

Responds to inquiries where knowledge of unit policy, procedure, and guidelines is required.

Answers telephone, screens calls, and places outgoing calls.

Screens mail and responds to routine correspondence.

Signs, as directed, supervisor's name to routine correspondence, requisitions,

and other documents.

Schedules appointments and makes travel arrangements and reservations for supervisor.

Takes and transcribes dictation, or transcribes from dictation equipment.

Composes form letters, routine correspondence, and factual reports.

Types reports, manuscripts, and correspondence using standard typewriter or word processing equipment; proofreads and corrects to finished form.

Gathers, requests, and/or provides factual information, requiring reference to variety of sources.

May delegate routine typing, filing, and posting duties to subordinate clerical personnel.

May maintain basic bookkeeping records for grants, contract or state appropriated funds.

May prepare payrolls, keep sick and annual leave records, act as receptionist and perform other clerical duties as needed.

May attend meetings take notes and relay information; typically would not interpret information or speak on behalf of supervisor.

Grievant has been employed by DOC for eight years, first as a Corrections Officer and then as a Receptionist and later as a Secretary. Grievant currently works as an OA III at the Charleston Work Release Center. Grievant and her supervisor, Mr. Donald Ervin, both testified she works directly for him, and he is the only person who assigns her work. Grievant was reclassified in April 1994. Her current classification was based on her 1991 Position Description Form ("PDF"). Grievant testified her duties have increased in number and complexity since that time. Grievant completed a new PDF in October 1994 at the direction of the Level III Grievance Evaluator. This PDF reflected the duties Grievant performed at the time of reclassification. Both Mr. Ervin and her next level supervisor, Manfred G. Holland, Deputy Commissioner of Programs, agree Grievant performs the tasks she described in her current PDF.

Grievant's main duties are composing letters and memos for Mr. Ervin; researching and compiling data for statistical reports she writes at Mr. Ervin's direction; serving as the Furlough Officer, Medical Officer, and Religious Officer which entails multiple phone calls and contacts with families, inmates, and service personnel; and sorting mail, screening phone calls, making appointments, and arranging conferences, meetings, and travel plans for Mr. Ervin. In addition, Grievant takes dictation, answers multiple questions of a varying nature, develops new forms, photographs new inmates and transmits new inmate cards to various law enforcement agencies, and maintains a variety of logs.

Many of Grievant's duties are ones typically assigned to Corrections Officers. Mr. Ervin assigned these duties to Grievant because he could count on her to perform these tasks correctly and on time. Some of the tasks Grievant performs are not done by the OA III's in the other work release centers. These tasks include a monthly population report for <u>all</u> DOC

institutions which is sent to multiple agencies and a daily log of escapes from all DOC institutions. Grievant testified the additional duties assigned by Mr. Ervin take approximately 1/3 of her time each week. At Level IV, Ms. Ginny Fitzwater, a Personnel Specialist with DOP, submitted into evidence the PDF of the OA III assigned to the Huntington Work Release Center. Level IV, DOP Exh. #3. This form confirmed Grievant's testimony.

Mr. Lowell Basford, Assistant Director of Classification and Compensation with DOP, testified at Level III that Grievant wascorrectly classified. (See footnote 1) **Mr. Basford stated Office Assistants were distinguished from secretaries by certain key elements: 1) the reporting relationship between the position in question and the particular supervisor; 2) the job function performed by the employee; and 3) whether the employees worked directly for one individual or the duties were "process driven" by the function of the organization.**

Mr. Basford concluded the OA III classification was the "best fit" for Grievant. Mr. Basford also testified Administrative Secretarial positions are reserved for Commissioners and Directors, Secretary II positions for Deputy Commissioners, and "people below that have Secretary I's." Grievant works for the Administrator of a work release center, who is one-step below Deputy Commissioner Holland. Deputy Commissioner Holland's secretary is classified as a Secretary II.

Discussion

In order for Grievant to prevail upon a claim of misclassification, she must prove by a preponderance of the evidence that her duties for the relevant period more closely match another cited Personnel classification specification than the one under which she is currently assigned. See generally, Hayes v. W. Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). Personnel specifications are to be read in "pyramid fashion," i.e., from top to bottom, with the different sections tobe considered as going from the more general/more critical to the more specific/less critical, Captain v. W. Va. Div. of Health, Docket No. 90-H-471 (Apr. 4, 1991); for these purposes, the "Nature of Work" section of a classification specification is its most critical section. Atchison v. W. Va. Div. of Health, Docket No. 90-H-444 (Apr. 22, 1991); See generally, Dollison v. W. Va. Dept. of Employment Security, Docket No. 89-ES-101 (Nov. 3, 1989). The key to the analysis is to ascertain whether the Grievant's

current classification constitutes the "best fit" for her required duties. Simmons v. W. Va. Dept. of HHR/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991). The predominant duties of the position in question are class-controlling. Broaddus v. W. Va. Div. of Human Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). Finally, Personnel's interpretation and explanation of the classification specifications at issue should be given great weight unless clearly erroneous. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993).

Under the forgoing legal analysis, the West Virginia Supreme Court of Appeals' holding in Blankenship presents employees contesting their current classification with a substantial obstacle to overcome in attempting to establish that they are currently misclassified. In this case Grievant was originally classified based on the two-year-old job description of her duties. Her current duties involve considerably more responsibility, complexity, and authority. At the time DOP denied her appeal they only had the 1991 job description. Obviously, Grievant doesperform some duties listed under the OA III job description as the two position descriptions overlap extensively. However, a review of all the evidence, including all exhibits and testimony, proves the "best fit" for her required duties to be a Secretary I. Thus, DOP's determination is clearly wrong.

Grievant works under general supervision, at the full performance level and relieves Mr. Ervin of numerous clerical and administrative duties. Mr. Ervin requires Grievant to perform many additional duties. Accordingly, the "Nature of Work" section of Secretary I's classification specification more closely matches Grievant's duties.

The "Distinguishing Characteristics" section of the Secretary I's classification specification states the employee is assigned support duties for a specific individual. In Grievant's case this individual is Mr. Ervin. Grievant composes correspondence, screens phone calls, researches, compiles, and writes reports, and answers multiple phone inquiries. Much of the information Grievant deals with is of a confidential and sensitive nature. Mr. Ervin has assigned Grievant additional tasks because he trusts her abilities and knows the work will be completed on time and in an appropriate manner. These duties are discussed in the Secretary I's "Distinguishing Characteristics."

Grievant also performs most of the "Examples of Work" listed in the Secretary I classification specification. The "Examples of Work" section listed under the OA III

classification specificationsdoes not properly reflect the level, complexity, and responsibility of the tasks performed by the Grievant.

Additionally, placing Grievant in a Secretary I position would be in keeping with Mr. Basford's testimony that people below a Deputy Commissioner have Secretary I's. Mr. Ervin occupies the supervisory step below Deputy Commissioner Holland. Mr. Basford's argument that Grievant's work is "process driven" is somewhat confusing. The testimony is clear that Grievant's work is directed by only one individual and she does not perform work for anyone else. In this case, Mr. Ervin has entrusted to Grievant work usually performed by other employees. Mr. Ervin, as the supervisor ultimately responsible for this work, has decided to ensure the completion of these tasks by assigning them to Grievant.

Grievant has met her burden of proof and has demonstrated the Secretary I classification is the "best fit" for her duties. Additionally, Grievant demonstrated she works for one individual, and that her placement as a Secretary I will not cause detriment to DOP's hierarchial organization, but is indeed in keeping with the guidelines identified by Mr. Basford. Viars v. Dept. of Health and Human Resources and Div. of Personnel, Docket No. 94-HHR-512 (Dec. 29, 1994).

The above discussion will be supplemented by the following findings of fact and conclusions of law.

Findings of Fact

1. **Grievant is an eight-year employee of DOC and is currently classified as an OA III.**
2. **Grievant relieves her supervisor of numerous clerical and administrative duties and performs many other tasks assigned by Mr. Ervin. Grievant does not work for any other individual at the Charleston Work Release Center.**
3. **Grievant routinely composes letters and memos, compiles reports and logs, and answers questions of a sensitive and confidential nature. Grievant also serves as the Furlough, Medical, and Religious Officer at the Center. These duties involve frequent contacts with the public and verification of data.**

Conclusions of Law

Grievant has demonstrated by a preponderance of the evidence that the position classification of Secretary I is the "best fit" for her normal duties.

Accordingly, this grievance is GRANTED, and Respondents are directed to reclassify Grievant to Secretary I with all appropriate back pay and benefits, if any.

Any party or the West Virginia Division of Personnel may appeal this decision to the "circuit court of the county in which the grievance occurred," and such appeal must be filed within thirty (30) days of receipt of this decision. W. Va. Code §29-6A-7. Neither the West Virginia Education and State Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal, and should not be so named. Any appealing party must advise this office of the intent to appeal and provide the civil action number so that the record can be prepared and transmitted to the appropriate court.

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JANIS I. REYNOLDS

Administrative Law Judge

Dated: September 29, 1995

Footnote: 1 ***Grievant's reclassification was based on her old PDF which did not identify all the duties Grievant performed at the time of reclassification April 1994.***