TERRI GRIMMETT

v. **DOCKET NO. 94-MBOT-497**

BOARD OF TRUSTEES,

MARSHALL UNIVERSITY

D E C I S I O N

Grievant Terri Grimmett alleges she was misclassified effective January 1, 1994, in the "Mercer reclassification" (See footnote 1) , arguing that her Job Title, Campus I.D. Systems Specialist, Pay Grade 15, should have been assigned a higher Pay Grade. Grievant seeks as relief a Pay Grade 18 for her Job Title, effective January 1, 1994, and backpay from January 1, 1994. (See footnote 2)

The following Findings of Fact are properly made from the record developed at Level IV.

Findings of Fact

1. In 1991, all higher education classified employees were asked to complete a Position Information Questionnaire ("PIQ"). Employees were to describe their job duties and responsibilities and the job requirements on the PIQ, by answering a series of questions designed to elicit this information. Grievant was employed at Marshall University ("MU"), and completed a PIQ in 1991. She revised her PIQ in 1993 to reflect changes in her duties.

2. Grievant was classified as a Campus I.D. Systems Specialist, Pay Grade 15, effective January 1, 1994.

3. On January 1, 1994, the primary purpose of Grievant's position was to make sure the computerized campus student identification system was functioning properly. This system was designed and installed by a company referred to by Grievant as C- Board. The "C-Board system" allowed students to purchase meals in advance, and then use a card, similar to a credit card, to obtain meals by swiping the card through a machine connected to the C- Board system. This machine is referred to as an "encore." Students were also able to use this card to obtain entrance to athletic events and other activities, and to access other services.

4. Grievant's primary job duties (with the percentage of time she spent performing each duty shown in parenthesis) were maintaining databases after downloading information from the MU computer network into the C-Board system (15%); training staff and users on how to use encores, and providing technical assistance(10%); entering codes to change or activate encores (10%); monitoring the C-Board system to identify, correct, and improve techniques and methodologies (10%); preparing magnetic campus wide identification cards and badges for faculty, staff and students (10%); serving as a resource person to departments which wished to begin using the C-Board system, acting as liaison between the departments and C-Board and the MU computer center, locating sources of problems and making repairs (10%); researching system problems and working with C-Board or the MU computer center to develop solutions (5%); coordinating software and hardware installation and assigning work to subordinates (5%); advising managers of C-Board network policies and procedures (5%); attending the annual C-Board training conference and reading on updates to system (5%); maintaining accounts payable for points usage for food services department (5%); maintaining accounts receivable for points system account (5%); and monitoring and maintaining data backup and recovery procedures (5%).

5. Grievant does not hold a Bachelor's Degree, but she does hold an Associate's Degree.

6. Grievant received two days of training from C-Board on how to install encores, how to enter the proper codes to change or activate encores, and how to identify and solve some problems with encores. After the initial training, she attended annual conferences sponsored by C-Board to learn more about the system and to learn additional troubleshooting techniques.

7. Grievant used a manual provided by C-Board and pastexperience to determine what steps to follow in troubleshooting. She followed set procedures to try to determine the source of the problem. For example, she would first check the wiring on encores, and would then go through other steps. If she could not solve the problem using the manual and past experience, she called the vendor for assistance, and then added the information provided by the vendor to a troubleshooting manual which she prepared and maintained for ease of reference. As she gained more experience, she called on the vendor for less assistance to avoid the service fee charged by the vendor for each call. If she did not have time to check the manual to try to determine the source of the problem, she called the vendor.

8. When students purchased meals, or paid other fees which entitled them to receive services

by using the computerized card, this purchase was entered into the MU computer system. Each night this information was downloaded from the MU computer system into the C-Board system. If the MU computer system was not downloading information properly to the C-Board system, Grievant would explain what was occurring and the desired result to the MU computer center, and the programmers in the computer center would make adjustments to the MU program to solve the problem.

9. Every morning Grievant checked reports for error messages on the downloading activity. She would access the computer system to identify the error. She then compared the report from the previous day to the current day's report. If changes had not been downloaded, an employee in the office entered the data manuallyinto the C-Board system. If no one was on hand to enter the data, Grievant entered the data.

10. The Campus I.D. Systems Specialist Job Title received 2040 total points from the following degree levels in each of the thirteen point factors (See footnote 3) : 5.0 in Knowledge; 3.0 in Experience; 3.0 in Complexity and Problem Solving; 3.0 in Freedom of Action; 5.0 in Scope and Effect, Impact of Actions; 3.0 in Scope and Effect, Nature of Actions; 1.0 in Breadth of Responsibility; 2.0 in Intrasystems Contacts, Nature of Contact; 3.0 in Intrasystems Contacts, Level of Contact; 2.0 in External Contacts, Nature of Contact; 3.0 in External Contacts, Level of Contact; 2.0 in Direct Supervision Exercised, Number; 3.5 in Direct Supervision Exercised, Level; 1.0 in Indirect Supervision Exercised, Number; 1.0 in Indirect Supervision Exercised, Level; 2.0 in Physical Coordination; 2.0 in Working Conditions; and 1.0 in Physical Demands. Respondent's Exhibit 4.

Discussion

A. Burden of Proof

The burden of proof in misclassification grievances is on the grievant to prove by a preponderance of the evidence that he is not properly classified. 156 C.S.R. 1 § 4.19; W. Va. Code § 18-29-6. Burke, et al., v. Bd. of Directors, Fairmont State College, Docket No. 94-MBOD-349 (Aug. 8, 1995). The grievant assertingmisclassification must identify the job he feels he is performing. Otherwise the complaint becomes so vague as to defy an adequate rebuttal or analysis. Elkins v. Southern W. Va. Community College, Docket No. 90-BOD-124 (Mar. 4, 1991).

A grievant is not likely to meet his burden of proof in a Mercer grievance merely by showing that the grievant's job duties better fit one job description than another, because the Mercer classification

system does not use "whole job comparison". The Mercer classification system is largely a "quantitative" system, in which the components of each job are evaluated using the point factor methodology. Therefore, the focus in Mercer Decisions issued by this Grievance Board is upon the point factors the grievant is challenging. (See footnote 4) While some "best fit" analysis of the definitions of the degree levels is involved in determining which degree level of a point factor should be assigned, where the position fits in the higher education classified employee hierarchy must also be evaluated. In addition, this system must by statute be uniform across all higher education institutions; therefore, the point factor degree levels are not assigned to the individual, but to the Job Title. W. Va. Code § 18B-9-4; Burke, supra. A Mercer grievant may prevail by demonstrating his reclassification was made in an arbitrary and capricious manner. See Kyle v. W. Va. StateBd. of Rehabilitation, Div. of Rehabilitation Services, Docket No. VR-88-006 (Mar. 28, 1989).

Finally, whether a grievant is properly classified is almost entirely a factual determination. As such, the Job Evaluation Committee's ("JEC") interpretation and explanation of the point factors and Generic Job Descriptions or PIQ's at issue will be given great weight unless clearly erroneous. See Tennant v. Marion Health Care Found., 194 W. Va. 97, 459 S.E.2d 374 (1995); Burke, supra. However, no interpretation or construction of a term used in the Job Evaluation Plan (which provides the definitions of point factors and degree levels) is necessary where the language is clear and unambiguous. Watts v. Dept. of Health and Human Res., 195 W. Va. 430, 465 S.E.2d 887 (1995). The higher education employee challenging his classification thus will have to overcome a substantial obstacle to establish that he is misclassified. (See footnote 5)

B. Application of the Point Factor Methodology

Grievant challenged the degree levels received in Knowledge, Experience, Complexity and Problem Solving, Freedom of Action, and Physical Coordination. (See footnote 6) The following table shows the differences between the degree levels assigned Grievant's Job Title in the point factors she challenged, and the degree levels she argued she should have received. (See footnote 7)

	KN	EX	CPS	FA	PC
Campus I.D. Systems Specialist	5	3	3	3	2
Grimmett Argument	6	5	4	4	4

Respondent's Exhibit 4. Each of the point factors challenged by Grievant will be addressed

separately below.

1. Knowledge

The Job Evaluation Plan ("the Plan") defines Knowledge as:

> This factor measures the minimum level of education equivalency and/or training typically required for an incumbent to reach acceptable occupational competence on the job. The factor considers the technical, theoretical, and/or mechanical skills required, and the complexity and diversity of the required skills.

Grievant's Job Title received a degree level of 5.0, and Grievant argued she should have received a degree level of 6.0. A degree level of 5.0 is defined in the Plan as:

> Job requires broad trade knowledge or specific technical or business knowledge received from a formal registered apprentice or vocational training program or obtained through an associate's degree of over 18 months and up to 3 years beyond high school.

A degree level of 6.0 is defined in the Plan as:

> Job requires a thorough knowledge of a professional discipline or technical specialty as would normally be acquired through a relevant baccalaureate education program. Knowledge of principles, concepts, and methodology of a highly technical, professional, or administrative occupation is indicative of this level.

Grievant stated it would have been very helpful to her in performing her duties if she had held a Bachelor's Degree, andpointed to a number of her duties which she believed required some education to be able to perform, such as troubleshooting problems and entering codes into encores to achieve the desired result. However, she presented no evidence to support her opinion of how much education was required to acquire the skills she believed were needed.

To the contrary, the evidence is that a Bachelor's Degree is not required. As was pointed out by Margaret Robinson Buttrick, Human Resources Administrator for the State College and University Systems of West Virginia and JEC member, this point factor is not applied by looking at the preferred level of education. By definition, it measures the minimum level of knowledge required in order for someone to be able to perform the job at an acceptable level. Although Grievant does not hold a Bachelor's Degree, she argued this should not be considered because the Plan does not measure the qualifications of the incumbent. While this is true, the fact that Grievant is able to perform the duties of the position without a Bachelor's Degree is very good evidence that one is not necessary to be able to learn to perform the duties of the position.

As to her argument that formal education was needed to be able to enter codes to change or

activate encores and troubleshoot problems, Grievant attended C-Board sponsored conferences and training sessions to learn how to perform these duties, and could call C-Board if she had a question about changing or activating the encores, or if she could not find the source of a problem and solveit. Grievant presented no evidence that the instructions given by C-Board were so complex that a formal education was required in order to be able to carry out the instructions and training.

Finally, Grievant's PIQ does not support her opinion. It lists as the required knowledge level, a Bachelor's in Computer Science or a related field, or a two year degree in a related field with three years of experience involving operation and management of a multi-user computer system. Even in her testimony, Grievant stated a Bachelor's Degree would be helpful, but did not indicate it was a requirement. Grievant failed to prove a Bachelor's Degree is needed to be able to learn to perform the duties of her position.

2. Experience

The Plan defines Experience as follows:

> This factor measures the amount of prior directly related experience required before entering the job. Previous experience or training should not be credited under this factor if credited under Knowledge.

Grievant's Job Title received a degree level of 3.0, and Grievant argued she should have received a degree level of 5.0. A degree level of 3.0 is defined in the Plan as "[o]ver one year and up to two years of experience." A degree level of 4.0 is defined by the Plan as "[o]ver two years and up to three years of experience." A degree level of 5.0 is defined in the Plan as "[o]ver three years and up to four years of experience."

Grievant argued she was able to perform the duties of the position without a Bachelor's Degree because of her years of experience. Grievant stated she believed it was easier for her tolearn how to compare daily reports and perform related duties because she had been employed a long time at MU. Like Knowledge, this point factor does not look at whether prior experience would make it easier for an employee to perform the required job duties; rather it looks at the minimum experience necessary to be able to learn to perform the job duties.

Grievant's PIQ lists three years of experience is needed as follows:

1.

> Should possess simple programming skills which would be needed in programming terminals to meet needs of each location.

2.

Previous computer experience involving the use of a Database. Would especially be helpful if experience were in access control. This system deals with network of computers and reports for each area are held in a database.

3.

Person should possess managerial skills and the ability to research systems problems and obtain or develop solutions which would help in trouble-shooting efficiently.

Neither Grievant's supervisor or her second-level supervisor was called to testify as to how they arrived at the conclusion that this experience was appropriate, or whether this was the minimum experience needed or just their preference. The first item appears on its face to be a preference, because it states a person "should" have the listed skills. Further, the evidence was that simple programming skills are not needed to be able to perform the duties of the position. Grievant does not program computers. The C-Board system requires that particular codes be entered into the encores in a particular order to achieve the desired result. All Grievant needs to know is what codes to enter and the proper sequence. This can only be learned from C-Board, and would seem to be the type ofactivity for which one would use a reference manual or list which would explain what codes to enter. Grievant did not prove that anything other than the ability to follow instructions is needed to be able to enter these codes. She received on-the-job training from C-Board on how to enter codes, she had a manual available to her, and she could call the vendor.

The evidence presented also indicated troubleshooting and "systems research techniques" are the same, and that prior experience in this area was not needed. Again, C-Board provided Grievant with initial and annual training on what steps to take in troubleshooting, a manual, and she could call C-Board if she needed help.

Ms. Buttrick pointed out that, in deciding on the proper Experience rating for a Job Title, the JEC took into consideration the ratings made by Grievant and her supervisors on the PIQ, and the opinions of the Human Resource professionals on the JEC based on their knowledge of the standard in the industry for the Job Title, if there was a similar position. She stated in addressing Grievant's position, that an Associate's Degree would provide an employee with the basic knowledge she would need to run a specific software program, after receiving the same brief training by C- Board Grievant received. She also noted there is a six month probationary period for on-the-job training, which would allow the employee time to learn the specifics of the program.

Grievant presented no evidence to support her opinion that more than two years of experience was necessary to be able to learnto perform her duties. Her testimony merely shows that her opinion differs from that of the JEC. This is insufficient to meet her burden of proof. See Riggs v. Bd. of Trustees Marshall Univ., Docket No. 94-MBOT-711 (Apr. 29, 1996).

3. Complexity and Problem Solving

The Plan defines Complexity and Problem Solving as:

> This factor measures the degree of problem-solving required, types of problems encountered, the difficulty involved in identifying problems and determining an appropriate course of action. Also considered is the extent to which guidelines, standards and precedents assist or limit the position's ability to solve problems.

Grievant's Job Title received a degree level of 3.0, and Grievant argued she should have received a degree level of 4.0. A degree level of 3.0 is defined in the Plan as:

> Problems encountered can be somewhat complex and finding solutions to problems may require some resourcefulness and originality, but guides, methods and precedents are usually available. Diversified guidelines and procedures must be applied to some work assignments. Employee must exercise judgment to locate and select the most appropriate guidelines, references, and procedures for application, and adapt standard methods to fit variations in existing conditions.

A degree level of 4.0 is defined in the Plan as:

> Problems encountered are complex and varied due to incomplete and/or conflicting data. General policies, procedures, principles, and theories of specific professional disciplines are available as guidelines; however, these guides may have gaps in specificity or lack complete applicability to work assignments. Employee must utilize analytical skills in order to interpret policies and procedures, research relevant information, and compare alternative solutions.

Grievant argued she encounters complex problems when troubleshooting problems with the C-Board system. She pointed out that if she was on vacation when a problem arose, she would becalled in to solve the problem, and she was told by her supervisor to solve the problems with the computer. She concluded from this that her job was so complex no one else could perform her duties. She also pointed to her responsibility for downloading.

On her PIQ Grievant gave as an example of the common types of problems faced, that she detected a problem with the data which was being extracted from the MU computer and added to the C-Board system, researched the problem and found another error, and she contacted MU computer center personnel and informed them of the problem so they could adjust the program. She also stated that when communication is disrupted between the MU computer system and the C-Board

system, she locates the source of the problem and corrects it, which may require her to take a number of steps.

Ms. Buttrick focused on Grievant's testimony that "big" problems were referred to her supervisor, Grievant had available to her a manual and a help-line to solve problems, that she received training, and that Grievant had prepared a user manual. Ms. Buttrick concluded Grievant had diverse guidelines and procedures that could be applied to most of her work assignments, and that Grievant was required to exercise judgment to locate and select appropriate guidelines and references and to adapt these methods to fit her position.

> [T]his point factor does not evaluate the difficulty of the job itself. One of the key questions in applying this point factor is whether the employee must make decisions about how to solve a problem, and if so, whether the number of possible solutions is limited by some policy, regulation, or procedure. In Gregg, et al., v. Bd. of Trustees, W. Va. Network for Educational Telecomputing, Docket No. 94-MBOT-863 (Dec. 18, 1996), inorder to identify the source of errors, the grievants had to learn to recognize an error message on the computer screen, determine the computer language used in the error message, and then determine what the message meant. This was not a simple task, and sometimes required the grievants to go through a number of steps. However, a seemingly complex job did not equate to a high degree level in this point factor, because the grievants learned how to perform this task with education and experience, had reference manuals available which provided all the information necessary to determine the source of the problem, and could refer problems they had not encountered before to someone else.

Martin, et al., v. Bd. of Trustees, W. Va. Univ., et al., Docket No. 94-MBOT-658 (March 28, 1997). In Gregg, the grievants' Job Titles were properly assigned a degree level of 2.0 in this point factor. (See footnote 8) Grievant learned what steps to follow in troubleshooting from her C-Board training and from calling the vendor when particular problems were encountered, she had a manual available, and she could refer problems she had not encountered before to the vendor. This is comparable to the duties of the Gregg grievants. As previously noted, she must enter a particular code provided by C-Board when changing or activating encores. This is not within a degree level of 4.0. When checking for errors in the downloading activity, error messages appear on a report. She provided no detail as to how she determines what the error was. When determining what data was not downloaded, Grievant compares data, which is within a degree level of 2.0. When departments ask her ifthey can use the C-Board system, she gathers information from the department and then takes that information to the vendor and the MU computer center. It is the vendor and MU computer center who determine whether the department can be served by C-Board. None of this falls within a degree level of 4.0. Grievant presented no detail on her other duties which support a finding that those duties would fall

within a higher degree level. Grievant has not proven she should have received a higher degree level in this point factor.

4. Freedom of Action

The Plan defines Freedom of Action as:

> This factor measures the degree to which the position is structured as is determined by the types of control placed on work assignments. Controls are exercised in the way assignments are made, how instructions are given to the employee, how work assignments are checked, and how priorities, deadlines and objectives are set. Controls are exercised through established precedents, policies, procedures, laws and regulations which tend to limit the employee's freedom of action.

Grievant's Job Title received a degree level of 3.0, and Grievant argued she should have received a degree level of 4.0. The definitions in the Plan show that at a degree level of 3.0:

> Tasks are moderately structured with incumbent working from objectives set by the supervisor. At this level, the employee organizes and carries out most of the work assignments in accordance with standard practices, policies, instructions or previous training. The employee deals with some unusual situations independently.

The definitions in the Plan show that at a degree level of 4.0:

> Tasks are minimally structured with incumbent working from broad goals set by the supervisor and establishedinstitutional policies. The employee and supervisor work together to establish objectives, deadlines and projects. The employee, having developed expertise in the line of work, is responsible for planning and carrying out the assignment; resolving most of the conflicts which arise; and coordinating the work with others. The employee keeps the supervisor informed of progress and potentially controversial matters. Completed work is checked only to determine feasibility, compatibility with other work, or effectiveness in meeting the objectives of the unit.

Grievant pointed to her lack of contact with her supervisor. This is not determinative in applying this point factor. Ferguson v. Bd. of Trustees, Marshall Univ., Docket No. 94-MBOT-1001 (Feb. 6, 1997). "Employees who perform the same tasks each day, and do a good job, do not need daily supervision even though their duties fall within a degree level of 1.0." Martin, supra. On her PIQ Grievant stated she works from established policies and objectives, keeps her supervisor informed of any problems with the access control system or students, resolves routine conflicts and refers conflicts to her supervisor as needed, gives a copy of all major projects to her supervisor upon completion and sometimes confers with her prior to completion "as to effectiveness."

Grievant stated she ran the office, and was responsible for coordinating orientation, contacting departments, finding out orientation dates, staffing the area, and reports. If someone wanted to speak to a supervisor, she would refer them to a supervisor; for example, if a student had a complaint about

the application of a policy. She stated she did not report immediately to her supervisor that she had been called in to work when the system went down, but would tell her the next day. She stated she would often meet with her supervisor, who would tell her what wasneeded, and it was Grievant's responsibility to carry it out.

Respondent argued Grievant's tasks were moderately structured, and she followed standard practices and previous training. Respondent pointed to the fact that Grievant did not decide what computer system should be used, and the data she generated in report form was used by others to make decisions. Ms. Buttrick noted that Grievant stated she handled routine problems, and called her supervisor with other problems.

Grievant has not proven her duties fall within a degree level of 4.0. Grievant did not decide what she would do each day, rather her tasks were structured. She performed certain tasks each day. She performed troubleshooting when there was a problem, and changed or activated encores when the need arose, using standard practices and previous training for both duties. She prepared identification badges when needed by faculty or staff, following standard procedures. She served as a liaison to departments wishing to use C-Board when they asked for her assistance. She attended C-Board conferences annually. She provided no detail on her remaining duties which support a finding that she should have received a higher degree level.

5. Physical Coordination

Physical Coordination is defined in the Plan as:

> This factor assesses the amount of psychomotor skill involved in performing the job. Consider the complexity of body movements, speed/timing of movements, precision of movements, and need for close visual attention regularly required by the job in performing the work.

Grievant's Job Title received a degree level of 2.0, andGrievant argued she should have received a degree level of 4.0. A degree level of 2.0 is defined in the Plan as:

> Work requires simple hand/eye operations and some accuracy and regularity of motions, such as set-up and operation of basic instruments or equipment, and/or the occasional use of standard hand or power tools with minimal speed requirements.

A degree level of 3.0 is defined in the Plan as:

> Work requires some speed and accuracy of hand/eye coordination in the use of somewhat complicated instruments, equipment or hand or power tools requiring some speed and adeptness.

A degree level of 4.0 is defined in the Plan as:

> Work requires skill and accuracy or other manual actions involving rapid physical motions and closely coordinated performance on or with office equipment; or a high degree of manual skill and exactness in the use of hand instruments or equipment.

Grievant stated she has to be able to enter a large amount of data rapidly and accurately if a download does not work, to ensure the campus is not off-line for prolonged periods, and data must be entered at the end of every download for those areas of MU which were not fully integrated into the computer system. However, Grievant enters data only when the employee or temporary worker whose job it is to enter data is not there. She further stated that all student information must be accurately encoded or the student will not be able to use the card, or could use another student's privileges; but she did not indicate that any speed or skill was required in encoding cards.

Ms. Buttrick stated that a degree level of 4.0 was assigned to Data Entry Operators and Word Processing Operators, because the sole function of these positions is to enter data with speed andaccuracy 100% of the time. She also stated that because Grievant performed data entry only when filling in for an absent employee, this was not a requirement of Grievant's position. She further noted that if data entry were one of Grievant's duties, this would have a negative impact on the degree levels received in other point factors.

When listing her duties and responsibilities and the percentage of time spent performing each, Grievant did not list data entry. When asked whether she entered data, or whether this was the duty of someone she supervised, she said only that she sometimes did both jobs. Although Grievant may at times enter data, this is not a duty of her position and is not considered when rating her position. She has not proven she should have received a higher degree level in this point factor.

The following Conclusions of Law support the decision reached.

Conclusions of Law

1. The governing boards are required by W. Va. Code § 18B-9- 4 to establish and maintain an equitable system of job classifi cations for all classified employees in higher education.

2. The burden of proof in a misclassification grievance is on the grievant to prove by a preponderance of the evidence that he is not properly classified. 156 C.S.R. 1 § 4.17. The grievant asserting misclassification must identify the job he feels he is performing. Otherwise the complaint

becomes so vague as to defy an adequate rebuttal or analysis. Elkins v. Southern W. Va. Community College, Docket No. 90-BOD-124 (Mar. 4, 1991). 3. The Job Evaluation Committee's interpretation and explanation of point factors will be given great weight unless clearly wrong, where the proper classification of a grievant is almost entirely a factual determination. See Tennant v. Marion Health Care Found., 194 W. Va. 97, 459 S.E.2d 374 (1995); Burke, et al., v. Bd. of Directors, Fairmont State College, Docket No. 94- MBOD-349 (Aug. 8, 1995).

4. The Job Evaluation Committee's decision that Grievant is a Campus I.D. Systems Specialist, Pay Grade 15, is not clearly wrong or arbitrary and capricious.

5. The Job Evaluation Committee's assignment of degree levels to the point factors for the Job Title Campus I.D. Systems Specialist is neither clearly wrong nor arbitrary and capricious.

Accordingly, the grievance of Terri Grimmett is **DENIED**.

Any party may appeal this Decision to the Circuit Court of Kanawha County or the Circuit Court of Cabell County, and such appeal must be filed within thirty (30) days of receipt of this decision. W. Va. Code § 18-29-7. 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.

BRENDA L. GOULD

Administrative Law Judge

Dated: April 10, 1997

Footnote: 1

The reader is referred to Burke, et al., v. Bd. of Directors, Fairmont State College, Docket No. 94-MBOD-349 (Aug. 8, 1995), for a discussion of the background of the Mercer reclassification project, the procedural history of the Mercer grievances, and the definitions of various terms of art specific to the Mercer reclassification.

Footnote: 2

A Level IV hearing was held on October 8, 1996. This matter became mature for decision on October 29, 1996, with the receipt of the parties' post-hearing written arguments.

Grievant resigned her employment August 31, 1994, and any back pay award would be calculated only through that date.

Footnote: 3

The thirteen point factors are set forth in 128 C.S.R. 62 § 2.27, and 131 C.S.R. 62 § 2.27. Burke, supra.

Footnote: 4

A grievant may challenge any combination of point factor degree levels, so long as he clearly identifies the point factor degree levels he is challenging, and this challenge is consistent with the relief sought. See Jessen, et al., v. Bd. of Trustees, W. Va. Univ., Docket No. 94-MBOT-1059 (Oct. 26, 1995); and Zara, et al., v. Bd. of Trustees, W. Va. Univ., Docket No. 94-MBOT-817 (Dec. 12, 1995).

Footnote: 5

This discussion is not intended to address challenges to the way the Mercer system as a whole is set up, that is, challenges to the methodology.

Footnote: 6

Respondent's post-hearing submission also states Grievant challenged Breadth of Responsibility, however, the record does not reflect that Grievant challenged this point factor.

Footnote: 7

These headings are shorthand for the following point factors: KN is Knowledge; EX is Experience; CPS is Complexity and Problem Solving; FA is Freedom of Action; and PC is Physical Coordination.

Footnote: 8

The grievants in Gregg received a degree level of 4.0 in Knowledge, while Grievant received a 5.0. The entry level Computer Operator position in Gregg received a degree level of 2.0 in Experience, the position which was required to solve more difficult problems received a 4.0, and the Lead position, which was required to solve the most difficult problems before referring them to programmers, received a 6.0.