CAROL STAATS,

Grievant,

v. **Docket No. 97-HHR-168**

WEST VIRGINIA DEPARTMENT OF HEALTH AND
HUMAN RESOURCES, LAKIN HOSPITAL, and
WEST VIRGINIA DEPARTMENT OF ADMINISTRATION,
DIVISION OF PERSONNEL,

Respondents.

D E C I S I O N

Carol Staats (Grievant) filed this grievance pursuant to W. Va. Code §§ 29-6A-1, et seq., on October 2, 1996, alleging that she should have been properly classified as an Information Systems Coordinator I, rather than as an Information Systems Assistant, by Respondent Division of Personnel (DOP). After the grievance was denied at Levels I and II, Grievant appealed to Level III where an evidentiary hearing was conducted on January 9, 1997. On March 17, 1997, the grievance was denied at Level III by John Bianconi, Acting Commissioner of the Bureau for Community Support. Grievant appealed to Level IV and, following a continuance for good cause shown, a hearing was conducted in this Board's office in Charleston, West Virginia, on June 25, 1997. The parties made oralarguments at the conclusion of that hearing, waiving written post-hearing submissions, and this matter became mature for decision at that time.

Background

The following Findings of Fact pertinent to resolution of this grievance have been determined

based upon a preponderance of the credible evidence contained in the transcript and exhibits from Level III, as well as the testimony and exhibits admitted at Level IV.

Findings of Fact

1. Grievant is employed by Respondent Department of Health and Human Resources (DHHR) at Lakin Hospital.

2. Grievant serves as the "Assistant Office Automation Coordinator" with primary responsibility for the Bookkeeping Department, including accounts payable, purchasing, and cost accounting. DOP Ex 3 at L III.

3. Grievant's immediate supervisor is Brenda Shuler. As the AS400 Computer System Administrator, she is primarily responsible for Lakin's computer system, and serves as the Business Office Supervisor. Ms. Shuler is classified as an Information Systems Coordinator I.

4. When Ms. Shuler is absent from work, Grievant is required to perform the duties of Ms. Shuler's position, including computer maintenance, software troubleshooting, and providing technical guidance to staff. DOP Ex 3 at L III. As a result, Grievant is expected to obtain and maintain the same knowledge as Ms. Shuler regarding the maintenance and operation of the computer system employed at Lakin Hospital. 5. During an average forty-hour work week, Grievant spends approximately five hours performing computer-related duties in Ms. Shuler's absence. DOP Ex 3 at L III. 6. DHHR employs the same AS400 computer system and pertinent software at each of its hospitals in West Virginia. There is an Information Systems Coordinator II at Pinecrest, Sharpe, and Huntington State Hospitals. In addition to Ms. Shuler at Lakin Hospital, there is an Information Systems Coordinator I at Huntington State and Sharpe Hospitals.

7. Although Grievant performs some of the same duties as Ms. Shuler, Grievant's overall duties are not substantially similar to the duties performed by other DHHR employees who have been classified by DOP as an Information Systems Coordinator I. See DOP Ex 3 at L III; R Ex C at L IV.

Classification Specifications at Issue

The relevant portions of the classification specifications for the Information Systems Assistant and Information Systems Coordinator I positions at issue in this case are reproduced herein as follows:

INFORMATION SYSTEMS ASSISTANT

Nature of Work

Under general supervision, performs full-performance level technical work in assisting a systems administrator or technical specialist with maintaining office automation equipment and software. Assists technical staff in purchasing, installing, and monitoring a computer system. Troubleshoots basic software and hardware problems and pulls cable. May set-up spreadsheets and database applications, produce complex documents and reports, and enter data. May be on a 24-hour on-call schedule. Performs related work as required.

Distinguishing Characteristics

This class is intended to function in a support role for a technical staff requiring a broad knowledge of computer hardware and software. The predominant portion of thework is maintaining office automation equipment, not creating spreadsheets and database files and/or manipulating data.

Examples of Work

Assists with managing computer system; monitors and reads the system; responds to prompts.

Maintains security for the system; creates, changes and deletes user profiles.

Troubleshoots basic hardware and software problems and resolves these problems.

Performs data back-up and recovery procedures; keys in commands; loads tape into the drive.

Assists with training new users in equipment operations; coordinates scheduling of training classes.

Installs computer equipment; moves and or replaces terminals, printer cables and other equipment.

Provides assistance in purchasing of hardware and software.

Maintains logs of equipment and software problems.

Maintains inventory of hardware and software.

Creates spreadsheets, electronic calendars and database files.

Operates a terminal using standard commands to enter, access and update or manipulate data to produce reports.

DOP Ex 2 at L II.

INFORMATION SYSTEMS COORDINATOR I

Nature of Work

Under general supervision, performs full-performance technical work in the information processing and office automation [department] of a state agency. Monitors and controls the production of information processing through the various stages of completion. Works with management, users and information systems staff in purchasing, installing and maintaining a mid-range or LAN location. Ensures continuous operation by readying the system, responding to prompts and enter[ing] any data required by the system. Troubleshoots basic software and hardware problems, pulls cable, and installs hardware. Reviews literature and recommends purchase of hardware and software. May install, move and replace terminals, printer cables and other equipment as necessary. May specialize in telecommunications, data processing, or other area without accountability for the operation of the total system. May participate in a 24-hour call schedule. Performs related work as required.

Distinguishing Characteristics

This classification is intended for use by positions in an agency's central office or outlying facility with a large system of terminals/personal computers/LANs or a mid-rangecomputer. The employee troubleshoots basic hardware and software problems, pulls cable, and installs hardware and software and handles daily operational activities. This classification is distinguished from the Information Systems Specialist classification in that the Information Systems Coordinator is responsible for either a single location or a smaller office or divisions LAN, mid-range or PC operations.

Examples of Work

Responsible for all PC's and other computer hardware at a location; determines best method of set-up of microcomputers or terminals, faxes, printers, or other peripherals.

Prepares requisitions for hardware, software and/or maintenance to be placed on bid for purchasing.

Manages LAN or mid-range system, including but not limited to equipment maintenance,

management of hardware and software upgrades and user support.

Works with users to ensure proper production runs; initiates production reruns when necessary.

Performs back-up and recovery procedures.

Analyzes operational problems, assists in resolving the problems and notifies users of the problems and/or the corrections.

Pulls cable, makes arrangements [for] upgrading of power outlets and inspects and tests systems after set-up.

Trains new users in the basics of equipment operation, typically in an one-on-one situation. Attends conferences, vendor demonstrations, and workshops to learn the implementation of new products, procedures, and programs.

Receives equipment and software packages; logs inventory, completes licensure and warranty information, maintains record of inventory and its location and maintains and updates supplies.

May create, change and delete user profiles.

DOP Ex 1 at L II.

Discussion

As this grievance does not involve a disciplinary matter, Grievant has the burden of proving each element of her grievance by a preponderance of the evidence. Procedural Rules of the W. Va. Educ. & State Employees Grievance Bd., 156 C.S.R. 1 § 4.19 (1996); Payne v. W. Va. Dept. of Energy, Docket No. ENGY-88-015 (Nov. 2, 1988). See W. Va. Code § 29-6A-6. More particularly, in order for a grievant to prevail upon a claim ofmisclassification, she must prove by a preponderance of the evidence that her duties for the relevant period more closely matched another cited Personnel classification specification than that 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 to be 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 generally 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 Grievant's current classification constitutes the "best fit" for her required duties. Simmons v. W. Va. Dept. of Health & Human Resources, 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, 189 W. Va. 342, 431 S.E.2d 681 (1993).

Grievant argues that Lakin Hospital uses the same computer system and program applications as other DHHR hospitals of comparable size, yet the employees involved in operating the information systems at those locations are classified in higher pay grades. DOP explained, through the testimony of Lowell Basford, Assistant Director for Classification and Compensation, that state employees are classified in accordance with the dutiesthey are assigned. DHHR has not assigned the same amount of information systems duties to Grievant as has been assigned to employees who work with information systems at other locations. The available evidence supports Mr. Basford's contention that the employer has chosen to organize the work force differently at each location.

The West Virginia Supreme Court of Appeals' holding in Blankenship, supra, presents employees challenging their current classification with a substantial obstacle to overcome in attempting to establish that they are currently misclassified. In this case, a preponderance of the evidence indicates that Grievant's predominant duties are more consistent with the Information Systems Assistant classification than the Information Systems Coordinator I classification. Although Grievant performs some of the duties contained in the Nature of Work portion of the Information Systems Coordinator I classification specification, the record is clear that these duties do not predominate Grievant's normal working day.

Consistent with the foregoing discussion, the following conclusions of law are made in this matter.

Conclusions of Law

1. In a grievance which does not involve a disciplinary matter, the grievant has the burden of

proving each element of her grievance by a preponderance of the evidence. Procedural Rules of the W. Va. Educ. & State Employees Grievance Bd. 156 C.S.R. 1 § 4.19 (1996); Payne v. W. Va. Dept. of Energy, Docket No. ENGY-88-015 (Nov. 2, 1988). See W. Va. Code § 29-6A-6.

2. Grievant has not proven by a preponderance of the evidence that the classification of Information Systems Coordinator I constitutes the "best fit" for the dutiesshe performs. See Simmons v. W. Va. Dept. of Health and Human Resources, Docket No. 90-H-433 (Mar. 28, 1991).

3. Although Grievant performs some duties that are outside her current classification as an Information Systems Assistant, this does not render her misclassified. Dooley v. W. Va. Dept. of Health and Human Resources, Docket No. 90-H-498 (Mar. 19, 1991). See Div. of Personnel Administrative Rules, Series I (Amended), §4.04(d) (1993); Broaddus v. W. Va. Div. of Human Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990).

4. Personnel's interpretations of the classification specifications for the positions of Information Systems Assistant and Information Systems Coordinator I, as they apply to the duties being performed by Grievant, are not clearly erroneous and, therefore, should be accorded great weight. W. Va. Dept. of Health v. Blankenship, 189 W. Va. 342, 431 S.E.2d 681 (1993).

5. Grievant's job duties, as demonstrated by a preponderance of the evidence, best fit within the classification specification for Information Systems Assistant.

Accordingly, the grievance is **DENIED**.

Any party 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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LEWIS G. BREWER

ADMINISTRATIVE LAW JUDGE

Dated: September 3, 1997