ARLENE FERGUSON,

Grievant,

v. **DOCKET NO. 98-BOT-229**

BOARD OF TRUSTEES,

MARSHALL UNIVERSITY,

Respondent.

D E C I S I O N

On April 1, 1998, Grievant, Arlene Ferguson, was reclassified as an Accounting Assistant I, Pay Grade 12, from a Parking Enforcement Officer, Pay Grade 11. She alleges she is misclassified, and has been misclassified since her lateral transfer in July 1996. She alleges her duties changed when she was transferred. She did not identify the classification sought, but challenged the degree level assigned by Marshall's compensation analyst in one point factor, and asserted her job duties place her in a Pay Grade 13. (See footnote 1) She sought as relief placement in a Pay Grade 13, and backpay fromJuly 1996. (See footnote 2)

The following Findings of Fact are properly made from the record developed at Levels II and IV.

Findings of Fact.

1. Grievant is employed at Marshall University ("Marshall"). Grievant'sposition was laterally transferred from the Parking and Transportation Office to the Bursar's Office on July 15, 1996. At the time of the lateral transfer, she was classified as a Parking Enforcement Officer, Pay Grade 11, and she remained in this classification after her transfer, until April 1, 1998.

2. Grievant's supervisor is Jamie Henry. Ms. Henry's supervisor is Robert Collier.

3. Grievant was issued a cash box her first day in the Bursar's office, and assigned to a window. She closed out that day and every day thereafter. She began learning and performing the same duties as the Accounting Assistant I's in the Bursar's Office the very first day on the job after

her transfer. In addition, she still had duties related to parking, and was teaching the Accounting Assistant I's those duties. Within six weeks she was performing all the duties the Accounting Assistant I's performed, and was proficient after three months.

4. Grievant was told by Mr. Collier and Ms. Henry after just a few months on the job that she would have to complete a position information questionnaire ("PIQ").

5. Grievant did not believe she understood the position well enough to complete a PIQ describing her duties and responsibilities in detail on her own, and she was unsure how much time was spent performing each duty, which is also needed for completion of the PIQ. Grievant asked Marshall's Human Resources Office for copies of the PIQ's of her co-workers, but was told these documents were confidential andshe could not have them, and was not told a generic PIQ was available. (See footnote 3)

6. Ms. Henry offered to help Grievant complete a PIQ, but did not do so, nor did she prepare a PIQ for Grievant.

7. Grievant prepared a PIQ, but did not submit it immediately, because the Accounting Assistant I's were preparing new PIQ's, and Grievant waited for them to complete theirs.

8. On February 23, 1998, Grievant signed the PIQ she had prepared, and submitted it to Ms. Henry. Ms. Henry, Mr. Collier, and Mr. Beckett signed the PIQ that same date. (See footnote 4) It was received by Marshall's Human Resources Office on February 26, 1998.

9. Effective April 1, 1998, Grievant's Job Title was changed to Accounting Assistant I, Pay Grade 12.

10. Grievant's primary job duties (with the percentage of time she performs these duties in parenthesis) are receiving and processing Parking Office money, determining charges, selling and issuing parking permits, data entry, assigning account codes, generating daily transaction reports, and advising students, faculty, parents and visitors on parking policies and procedures (45%); calculating student fees, coding receipts, distributing financial aid checks, monitoring student accounts, advising students, staff, faculty and parents on procedures for fee assessments, housingassignments, financial aid, and registration, balancing revenues and receipts, cashing checks for faculty and staff, collecting student fees, verifying departmental deposits, preparing receipts, and assisting with filing forms (45%); and assisting with processing mail-in fee payments, and posting (10%).

11. Grievant has daily contacts with the Director or Assistant Director in the Parking Office, Marshall's Registrar, a housing supervisor, the Associate Director and Director of Financial Aid, the Dean of the Graduate School, and others in supervisor or manager positions, or at higher levels.

12. Grievant contacts managers, supervisors and directors when a student account is showing a problem which she cannot resolve, for example, when a student tells her he has changed rooms but his account on the computer is not showing the change. She explains the problem to the person she has contacted, and provides information about the student account. The person she has contacted researches the problem to determine its source. Sometimes Grievant assists in reaching a resolution of the problem once its source is determined.

13. Grievant's contact with the Parking Office involves explaining policies and procedures, and assisting in developing policies and procedures. This takes up very little of Grievant's time, is not listed on Grievant's PIQ under duties and responsibilities, and is not part of the purpose of her position.

14. The Accounting Assistant I Job Title received 1707 total points from thefollowing degree levels in each of the thirteen point factors (See footnote 5) : 5.0 in Knowledge; 3.0 in Experience; 2.5 in Complexity and Problem Solving; 2.5 in Freedom of Action; 2.0 in Scope and Effect, Impact of Actions; 2.0 in Scope and Effect, Nature of Actions; 1.0 in Breadth of Responsibility; 2.0 in Intrasystems Contacts, Nature of Contact; 2.0 in Intrasystems Contacts, Level of Contact; 1.0 in External Contacts, Nature of Contact; 2.0 in External Contacts, Level of Contact; 1.0 in Direct Supervision Exercised, Number; 1.0 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.

15. The point score range for a Pay Grade 12 is from 1655 through 1755 points.

Discussion

The burden of proof in misclassification grievances is on the grievant to prove by a preponderance of the evidence that she 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 asserting misclassification must identify the job she feels she 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 her burden of proof in a higher educationmisclassification grievance merely by showing that the grievant's job duties better fit one job description than another, because the classification system does not use "whole job comparison". The higher education classification system is largely a "quantitative" system, in which the components of each job are evaluated using the point factor methodology. Therefore, the focus is upon the point factors the grievant is challenging. (See footnote 6) 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 higher education grievant may prevail by demonstrating her reclassification was made in an arbitrary and capricious manner. See Kyle v. W. Va. State Bd. 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 CareFound., 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 her classification thus will have to overcome a substantial obstacle to establish that she is misclassified.

A. Grievant's Current Classification

Grievant challenged only the degree level received in Intrasystems Contacts, Level of Contact. She argued she should have been rated at a degree level 3.0, rather than a 2.0. She agreed with the degree levels assigned to her position by Marshall's Human Resources Office in every other point factor.

Glenna Racer, Marshall's compensation analyst, explained she assigned the degree level ratings to Grievant's job duties upon her review of the PIQ. She assigned the same level as that assigned by

the JEC to the Accounting Assistant I Job Title, except in External Contacts, Nature of Contact, where she assigned a degree level of 2.0 to Grievant's duties, whereas a 1.0 had been assigned to the Job Title, and she assigned a degree level of 3.0 in External Contacts, Level of Contact, while the Job Title was assigned a degree level of 2.0. When she assigned values to the degree levels, she arrived at 1747 total points, which was within a Pay Grade 12.

Intrasystems Contacts is defined in the Job Evaluation Plan as a factor which:

> appraises the responsibility for working with or through other people within the SCUSWV [State College and University Systems of West Virginia] to get results. Consider the purpose and level of contactencountered on a regular, recurring and essential basis during operations. Consider whether the contacts involve furnishing or obtaining information, explaining policies or discussing controversial issues. This factor considers only those contacts outside the job's immediate work area.

This point factor evaluates two areas, the Nature of Contact and Level of Contact. A degree level of 2.0 in Level of Contact is defined in the Job Evaluation Plan as:

> Staff and faculty outside the immediate work unit.

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

> Supervisors, managers and/or chairpersons, other than own, within an institution, or coordinators within the Systems' Central Office.

In assigning the degree level, it is the highest level of regular, recurring and essential contacts which is measured, not the most frequent contact. Carlton v. Bd. of Directors, Docket No. 94-MBOD-430 (July 15, 1997). See Watts, supra.

The testimony offered by Grievant and her supervisor support the PIQ designation of a degree level of 3.0, as they stated Grievant talks to supervisors and managers in other departments on a daily basis in the regular course of performing her duties. Ms. Racer testified Grievant may well have regular, recurring and essential contacts with persons within a degree level of 3.0, however, Grievant did not provide any information to her when they met in March 1998, which would indicate this. Grievant has proven her duties merit a rating of a 3.0 in Level of Contact.

Ms. Racer believed that if Grievant's Level of Contact was at a degree level of 3.0, the conversations she would have with managers and supervisors would not fallwithin a degree level of 2.0 in Nature of Contact, but would fall within a degree level of 1.0. Grievant pointed to the nature of her contact with the Parking office.

A degree level of 1.0 in Nature of Contact is defined in the Job Evaluation Plan as:

> Routine information exchange and/or simple service activity; requires common courtesy (e.g., furnishing or obtaining factual information, ordering supplies, describing simple procedures).

A degree level of 2.0 in Nature of Contact is defined in the Job Evaluation Plan as:

> Moderate tact and cooperation required; communication is largely of a non-controversial nature and handled in accordance with standard practices and procedures (e.g., explaining simple policies and procedures, coordinating/scheduling complex meeting or conference arrangements.)

Ms. Racer opined Grievant's conversations with managers and supervisors would involve the routine exchange of factual information regarding the money received. She further stated Grievant was not in a position to be explaining policies and procedures to the Director of Public Safety, rather, her job was to handle the money coming in and receipts.

To the contrary, Grievant testified that she, in fact, explains policies and procedures to the Director and Assistant Director of Public Safety, and participates with them in developing parking policies and procedures, due to her many years of experience in that area, versus their lack of experience. They call her everyday for guidance, because she knows more about the parking area than they do. However, as Respondent pointed out, Grievant did not list this task under her assigned dutiesand responsibilities, or offer evidence as to how much of her day is spent in this area.

Grievant's contacts with the Director and Assistant Director of Public Safety fall within a degree level of 2.0, if not higher. The question with regard to this contact, however, is whether it is essential. Although Grievant is called upon by the Director and Assistant Director of Public Safety for guidance on a daily basis in resolving parking issues, this is a minor part of her job. Only the key areas of the job are essential. This is not to say that Grievant's contact with the Department of Public Safety is not important; it just does not constitute a significant part of Grievant's daily activities, as is evidenced by the fact this task was omitted from the duties and responsibilities on her PIQ. Grievant described the general purpose of her position on her PIQ as:

> To perform a variety of paraprofessional technical accounting transactions within the Revenue Processing and Refunds area in the Office of the Bursar. The position provides varied fiscal services to the university including the processing, distribution and reconciliation of student fees, financial aid, departmental revenue and refunds. In addition, the position provides collection, accounting and administrative support to Public Safety through the receipt of various types of revenue and disbursement of parking permits to university faculty, staff, students and visitors.

Grievant's advice to the Parking Office on policies and procedures is not within the general purpose

of the position, and is not an essential contact. Braniff v. Bd. of Trustees, Docket No. 94-MBOT-865 (Sept. 30, 1996).

Aside from her contact with the Parking Office, Grievant explained she contacts various managers and supervisors when there is a problem with a student account related to housing, registration, or financial aid, for example. Her role is to explain theproblem she is having, and provide factual information regarding the student's account. The person on the other end of the conversation then takes the information provided by Grievant, researches the situation, and calls Grievant to provide the results of the research to resolve the problem. Sometimes Grievant participates in reaching a resolution to the problem. She stated these were not routine matters, as she could handle routine matters on her own. While this contact occurs daily, it is not described in Grievant's duties and responsibilities, and Grievant did not indicate how much of her time is spent in such activities. Nonetheless, this contact is an integral part of her primary job duties, and is essential contact.

Although the matters themselves may not be routine, generally Grievant's role is to provide sufficient data regarding a student account so the person to whom she is speaking can research the problem. This is best characterized as routine information exchange. Layne v. Bd. of Trustees, Docket No. 98-BOT-236 (Dec. 7, 1998). (See footnote 7)

Neither party addressed Grievant's contacts with faculty and staff, even though Ms. Racer assigned Grievant a degree level of 2.0 for this contact. Grievant's PIQ describes her contact with faculty simply as, "[p]olicy, procedures, deadlines, and dates", and her contact with staff as, "[r]eceive and process receipts, posting to accounts." This contact with staff is within a degree level of 1.0. Under her duties and responsibilities she stated she "advises" faculty and staff on parking policies and procedures and on procedures for fee assessments, housing assignments, financial aid,registration, and related functions. Grievant stated she sometimes has to explain to faculty why a problem has occurred.

It appears from the PIQ as a whole, including the description of the purpose of the position, that Grievant's role is to explain that procedures require that certain things be done, and that she cannot vary the procedure. If faculty or staff are not satisfied with Grievant's answer, Grievant cannot help them. Grievant is not trying to convince them to take particular action. Her role is to provide faculty with information on procedures in a courteous manner, all of which is also within a degree level of 1.0. Morasco v. Bd. of Directors, Docket No. 94-MBOD-777 (May 13, 1997).

> The difference between levels 1 and 2 of Nature is, at best, difficult to discern. Dictionary definitions of the terms included in the phrases "common courtesy" and "moderate tact" show that the two phrases have virtually identical meaning. The most obvious difference between the two levels is the inclusion of the term "cooperation" in level 2, and that the level 2 definition includes explanatory and coordinating communication, where level 1 appears limited to merely providing factual information.
>
> It is difficult to determine when information regarding criteria and options is description, and when it is explanation. By reference to Webster's Collegiate Thesaurus, "description" can also be characterized as "recounting" or "reciting," while "explaining" can be characterized as "construing" or "interpreting." Thus, it appears that, to move from the descriptive to the explanatory, one must go beyond reciting a policy or requirement to interpretation of the policy or requirement.

Reedy v. Bd. of Directors, Docket No. 94-MBOD-721 (Nov. 4, 1996).

Except for her contact with the Department of Public Safety, Grievant's Intrasystems Contacts appear to be best characterized as obtaining and providing factual information, although her contacts may, from time to time, rise to a higherlevel.

These two changes in Intrasystems Contacts leave Grievant with a total score of 3 in Intrasystems Contacts, rather than the 4 she started with, which finally results in a net decrease of 6 points (Respondent's Exhibits 1 and 2). (See footnote 8) See Layne, supra.

B. Backpay

With regard to the backpay issue, Grievant argued she had been performing the same duties as her co-workers since she began her employment in the Bursar's Office in July 1996. She argued she should have been classified in the Pay Grade 12 Job Title of Accounting Assistant I since 1996.

Respondent quoted the following language from W. Va. Code § 12-3-13: "no money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered;" arguing, "[a]n award of back pay would clearly ignore the clear, unambiguous and controlling language" of this statute, as it was impossible to tell when Grievant began performing the duties of an Accounting Assistant I. Respondent also argued it was Grievant's responsibility to submit a new PIQ so she could be reclassified.

Grievant testified she was issued a cash box and assigned to a window her very first day on the job, and she had begun learning the duties of the position from the first day. Ms. Henry verified that Grievant was on a window and performing all the duties of the other Accounting Assistant I's after six weeks, and was performing reasonably well at that point.

Ms. Henry testified she told Grievant after two or three months that she needed to complete a PIQ

as soon as she felt comfortable with the job. She felt it would take three months for Grievant to know what her job duties would be, although she may not know the percentage of time for the duties by that point. She also testified, however, that it takes two years for an employee to learn all facets of the job. Shedid not explain how Grievant could be expected to prepare a PIQ under these circumstances.

Mr. Collier testified Grievant was proficient in her duties after three months, but she did not know the job completely at that point. He stated it took eight to twelve months for her to obtain a firm grasp of the duties and responsibilities of the position. He stated he had told Grievant after about three months on the job that she needed to submit a PIQ in order to get into the higher pay grade. He likewise did not explain how Grievant was supposed to complete a PIQ when she did not have a firm grasp of her duties and responsibilities.

Only Mr. Beckett testified that Grievant did not take on the duties of an Accounting Assistant I from the beginning. He stated her duties were primarily parking in the beginning, and she assisted with other duties. He stated the Accounting Assistant I duties were added over a period of time. While this may be what Mr. Beckett intended, and was led to believe, it is not what Grievant's supervisor did. She began the training process for Grievant as an Accounting Assistant I her first day on the job.

Bill Burdette, Marshall's Director of Human Resources, explained that the Human Resources Office could not review a transferred employee's classification until a new PIQ is completed. He stated the Human Resources Office conducts periodic reviews, and either calls or sends out notices when a new PIQ needs to be completed, which occurred in this case. He opined it is the responsibility of the employee and her supervisor to complete and submit a new PIQ. Ms. Racer testified she had spoken toMr. Collier and Mr. Beckett at least once, sometime prior to September 1997, about the need for a new PIQ for Grievant's position. She also testified it is just the practice in higher education that reclassifications are not retroactive to the date of submission of the PIQ.

Respondent's suggestion that Grievant was not an Accounting Assistant I from her first day on the job because she did not perform all the duties of her new position the very first day is without merit, and frankly contradicts the position of Respondent during the Mercer reclassification grievances. Certainly there was a learning curve for Grievant in her new position, as there would be with any employee entering into new job duties. Respondent offered no indication that there was a training position for Accounting Assistant I in a lower pay grade, as there is with some classifications.

Grievant's supervisor began the training process for Grievant as an Accounting Assistant I her first day on the job, and added additional duties for her to learn in the new position as she was able to take them on.

Grievant testified when she was first transferred, she did not know all her job duties, and was unable to complete a PIQ for that reason. Once she had completed a PIQ for her position, she did not submit it right away, because the other two Accounting Assistant I's also thought they should be reclassified, and she waited for them to complete new PIQ's before submitting hers.

Grievant felt she could have been assigned to the Accounting Assistant I position on an interim basis from the moment of her transfer until a new PIQ was completed, as this had been done in other cases. Mr. Burdette opined an interimassignment could have occurred here, but he was not aware of any other lateral transfers at Marshall which had resulted in an interim assignment.

128 C.S.R. 62 § 10.1 provides, in pertinent part:

> When significant changes occur in the principal duties and responsibilities of a classified position, it is the responsibility of the supervisor to recommend through established procedures that the position be reviewed. Requests for position reviews also may be initiated by an employee after discussion with the immediate supervisor. Within thirty (30) days from the date of request for review of a job, the department of human resources shall report to the requestor, in writing, whether the reclassification has been denied or approved. The immediate supervisor must prepare a complete and accurate position description form of the duties of the position, but the description may be written by the employee at the supervisor's request. The responsibility for assigning tasks and duties to a position belongs to the supervisor. It is the supervisor's responsibility to document and submit the position description form for classification review when significant changes occur in the principal duties and responsibilities of a position. It is also the responsibility of a supervisor to ensure completion of required forms. The institutional president or the president's designee may also initiate action to review positions. The institutional president or the president's designee has authority on the campus to make classification determinations for institution-specific titles or the slotting of employees under existing systems-wide titles. The president may delegate authority to the human resource administrator for day to day management of the classification program. . . ..

Respondent asserted that Grievant failed to promptly prepare a PIQ because she had an agenda. The undersigned sees no evidence to support this claim. It was Grievant's supervisor who was responsible for getting a PIQ prepared and making sure Grievant was properly classified. The testimony of Ms. Henry and Mr. Collier supported Grievant's statements that she had taken on the Accounting Assistant I duties from day one, but she was not familiar enough with the job to prepare an accurate PIQ. While Series 62 allows a supervisor to assign the employee the duty ofpreparing the PIQ, it states that the supervisor is to prepare the PIQ and is responsible for making sure her employees are properly classified. It was not Grievant who "dropped the ball" here; it was her

supervisor. It seems no one was willing to take responsibility for the process, and no one was really willing to take the initiative to assist Grievant in the difficult process of completing a PIQ, including the experts in the Human Resources Office.

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 classifications 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 she is not properly classified. 156 C.S.R. 1 § 4.17. The grievant asserting misclassification must identify the job she feels she 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. Marshall's decision that Grievant is an Accounting Assistant I, Pay Grade 12, is not clearly wrong or arbitrary and capricious.

5. 128 C.S.R. 62 § 10.1 places the responsibility for assuring a PIQ is prepared upon the employee's supervisor.

6. Grievant proved she performed services for Marshall in a Pay Grade 12 position from July 15, 1996, through March 31, 1998, without proper compensation, and that she is entitled to backpay for that period.

Accordingly, this grievance is **GRANTED IN PART AND DENIED IN PART**. Respondent is **ORDERED** to pay Grievant backpay from July 15, 1996, through March 31, 1998, in the amount of the difference in the salary she received, and the salary she should have received had she been placed in a Pay Grade 12 upon her transfer. As no interest was requested, none will be awarded. Grievant's request to be placed in a Pay Grade 13 is **DENIED**.

Any party may appeal this Decision to the Circuit Court of Kanawha County or to the Circuit Court of Cabell County. Any 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. However, the appealing party is required by W. Va. Code § 29A-5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Grievance Board with the civil action number so that the record can be prepared and transmitted to the circuit court.

BRENDA L. GOULD

Administrative Law Judge

Dated: July 28, 1999

Footnote: 1

Although Respondent argued at the Level IV hearing that Grievant had to identify a particular Job Title in Pay Grade 13, because otherwise Respondent could not properly defend the claim, this argument was not pursued in the post-hearing written argument, and is deemed abandoned. The undersigned would note that as the higher education classification system has rejected whole job comparison in favor of a point factor methodology which evaluates the duties of the position in 13 categories, and then determines the proper pay grade based upon the point totals, Respondent can certainly defend a claim that particular point factor degree levels do not apply to thegrievant, and the proper Job Title in these cases is not likely to be a significant issue.

Footnote: 2

This grievance was filed on or about April 8, 1998. The initial grievance form stated Grievant sought backpay to July 1997, but this was corrected at a later date to 1996. Grievant alleged in her statement of grievance that a desk audit had not been performed as required, the Human Resources office "lowered" six categories on her Position Information Questionnaire ("PIQ") which had been approved by four supervisors, she is performing duties carried over from her previous work station, including input on policy decisions, without compensation, and she worked as an Accounting Assistant I from July 1996, to the present without compensation; and sought as additional relief that a desk audit be conducted. She did not pursue the desk audit issue, or the "lowering" of degree levels by the Human Resources office argument at Level IV.

After filing her grievance, Grievant requested that it be placed in abeyance while she submitted a new PIQ, and then asked on June 2, 1998, for reinstatement of her grievance. Grievant's supervisor responded on June 3, 1998, that she was without authority to grant the relief requested, and Grievant appealed to Level II that same day. A Level II hearing was held on June 15, 1998. The grievance evaluator did not find Grievant misclassified, but concluded she had been

misclassified from July 15, 1996, until her reclassification as an Accounting Assistant I in March 1998; and it was the responsibility of her supervisor and the Department of Human Resources to get her reclassified as soon as possible, which they had not done. He recommended she be awarded backpay to July 15, 1996. This recommendation was not accepted by President J. Wade Gilley, who issued a Level II decision denying the grievance on June 25, 1998. Grievant waived Level III, appealing to Level IV on June 30, 1998. A Level IV hearing was held on March 3, 1999. Grievant was represented by James W. St Clair, Esquire, and Respondent was represented by Samuel R. Spatafore, Esquire. After the hearing this grievance was placed in abeyance while the parties engaged in settlement negotiations. A settlement was not reached, and this grievance became mature for decision upon receipt of Respondent's reply brief on June 4, 1999. At no time did Respondent raise as a defense that the grievance was not timely filed.

Footnote: 3

Grievant testified she looked at a generic PIQ after she submitted hers, and it would not have helped her as there were only five duties listed.

Footnote: 4

There is another signature on the PIQ, but it is illegible.

Footnote: 5

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: 6

A grievant may challenge any combination of point factor degree levels, so long as she clearly identifies the point factor degree levels she 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: 7

Ms. Layne is one of Grievant's co-workers, who is classified as an Accounting Assistant I.

Footnote: 8

The two degree levels from the two-part point factors are assigned a composite number in the Job Evaluation Plan (See Respondent's Exhibit 1). The composite number, and each degree level assigned to each non-two-part point factor, is assigned a numerical rating on a chart (Respondent's Exhibit 2). These numerical ratings are than added together to get total points. The pay grades are assigned to ranges of points (Respondent's Exhibit 3).