MARY CASSELL,

Grievant,

v. **DOCKET NO. 03-HEPC-223**

HIGHER EDUCATION POLICY COMMISSION/

MARSHALL UNIVERSITY,

Respondent.

D E C I S I O N

Grievant, an employee of the Higher Education Policy Commission at Marshall University ("Marshall"), classified as a Supervisor/Physical Plant Support Services, pay grade 15, filed this grievance asserting her job should remain in a pay grade 16. In her statement of grievance she asserted that she had been demoted from a pay grade 16 to a pay grade 15 due to sexual discrimination. She seeks as relief to be placed in a pay grade 16, back pay, and interest, although her pay was not reduced when her Job Title was moved to a pay grade 15. She challenged the degree levels assigned to her Job Title in the point factors Knowledge, Experience, Complexity and Problem Solving, Freedom of Action, Direct Supervision Exercised/Number of Subordinates, and Direct Supervision Exercised/Level of Supervision. (See footnote 1)

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

Findings of Fact.

1. Grievant is employed at Marshall as a Supervisor/Physical Plant Support Services ("Supervisor/PPSS"). Grievant was placed in this Job Title by Glenna Racer, Compensation Analyst at Marshall, and member of the Job Evaluation Committee ("JEC"), several years ago, after she reviewed Grievant's Position Information Questionnaire ("PIQ") and slotted her in this Job Title. This change was not reviewed by the JEC at that time, as Compensation Analysts may make such slotting decisions on campus. Grievant had previously been in a pay grade 12 classification.

2. In connection with a review by the JEC of the Physical Plant Job Family, a PIQ was completed for Grievant's job in the summer of 2001, describing her job duties and responsibilities and the job requirements. The JEC determined that Grievant's Job Title should be downgraded from a pay grade 16 to a pay grade 15. This change was effective July 1, 2003.

3. The JEC also determined that the three other employees in the Supervisor/PPSS Job Title, all of whom were male, should be placed in a different Job Title, as their duties were better described as Certified Grounds Supervisors, and they didnot do the same job as Grievant. The three males were placed in the Certified Supervisor of Grounds Job Title, and their duties were such that their Job Title was placed in a pay grade 16. This left Grievant as the only higher education employee in the Supervisor/PPSS Job Title.

4. Grievant has two main areas of responsibility: maintaining the computers in the Physical Plant department and assisting computer users in the department, and supervising the warehouse. She spends 45% of her time dealing with computers, 45% of her time supervising the warehouse, and 10% of her time working with the Human Resources department scheduling training for Physical Plant employees and ordering and receiving uniforms, and completing all paperwork related to the uniform contract for the Physical Plant department.

5. Grievant is the Information Technology (“IT”) person for her department, and as such, she has taken courses and received training on various software programs, such as Lotus, WordPerfect, Excel, and Word, so that she can assist users in the department when they are having problems with the software, and she stays up to date on new software developments and potential problems, such as new viruses, by attending seminars and meetings. When a computer is upgraded, she installs the new software, and makes sure the computer programs are all working after the upgrade. She also is familiar with computer hardware, and when a computer is not working properly, she is able to work on the computer and tries to return it to service. If she cannot diagnose the problem, she calls the computer center at Marshall for assistance, and works with the computer center to diagnose and fix the problem. She maintains computer supplies and software. She oversaw the design of the department's web site and is responsible for maintaining it. When the department is going to purchase new computers, she determines what software will be needed, what computers would best serve the department, gets price quotes, and presents this information to her supervisor for his decision. 6. Grievant also oversees proper storage and security of all inventory in the Physical

Plant department warehouse. She categorizes and organizes inventory, researches costs, vendors, and equipment usage, places orders, inspects orders received, and decides whether to accept or reject orders. She establishes time tables and sets priorities for short and long-term goals for the warehouse, and makes sure "warehouse procedures are in accordance with codes, project plans and specifications." She establishes what quantity of goods to order, analyzes usage, and makes recommendations on inventory control and procedure. She is responsible for preparing the budgetary projection for future warehouse expenditures, and supervises one employee working in the warehouse.

7. The Supervisor/Physical Plant Support Services Job Title received 2040 total points from the following degree levels in each of the thirteen point factors (See footnote 2) : 5.0 in Knowledge; 4.0 in Experience; 3.0 in Complexity and Problem Solving; 3.0 in Freedom of Action; 3.0 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; 2.0 in Intrasystems Contacts, Level of Contact; 1.0 in External Contacts, Nature of Contact; 2.0 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; 3.0 in Physical Coordination; 2.0 in Working Conditions; and 3.0 in Physical Demands.

8. The point score range for a pay grade 15 is from 1985 points to 2113 points.

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, Docket No. 94-MBOD-349 (Aug. 8, 1995). A higher education grievant is not likely to meet his burden of proof in a classification 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 is upon the point factors the grievant is challenging. (See footnote 3) 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 the classification decision 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 JEC's 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. Dep't 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 4)

B. Application of the Point Factor Methodology

The following table shows the differences between the degree levels assigned in the point factors challenged by Grievant for the Supervisor/PPSS, and the degree levels Grievant argued her job should have been assigned.

	KN	EX	CPS	FA
Supervisor/PPSS	5.0	4.0	3.0	3.0
Grievant's Argument	6.0	5.0	3.5/4	3.5/4

(See footnote 5)

Grievant also questioned the fairness of the application of the point factor Direct Supervision Exercised. 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. 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.

Grievant argued she should have received a degree level of 6.0. 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.

In support of her position, Grievant pointed to the fact that she does a lot of “IT” work. She installs memory chips on computers, changes CD ROMs, and if a computer is not functioning, she checks to see if she can fix the problem, sometimes taking the computer apart, before calling the computer center. She maintains software for the department, does computer upgrades, and corresponds with the software company. She stated she has taken computer classes and management classes, and she believed both were necessary to performance of her job.

Ms. Racer pointed out that Grievant does not write computer programs, she has no responsibility for networks or operating systems, or any of the kinds of things that normally would be dealt with by the positions in the computer center, which deal with applications at a higher level. She stated Grievant is a department support person, and the JEC has found that positions at this level usually are best filled by someone with an Associate's Degree.

Grievant has not demonstrated that her computer duties are such that a four year degree would be required. Her work with learning standard programs such as Word, WordPerfect, Lotus, and Excel, and installing various software programs does not appear to be the type that would take more than a few weeks of training. Some type of trainingwould be necessary to perform the type of hardware repair she does, but nothing in the record supports a finding that four years of professional training would be required. Grievant fixes the problems she can fix, and passes those she cannot fix on to the computer center. Likewise, Grievant has not demonstrated that her inventory/warehouse duties are such that a degree in any professional discipline would be a prerequisite.

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 duties were assigned a degree level of 4.0 in Experience, which is defined in the Plan as "[o]ver two years and up to three years of experience." Grievant argued she should have received a degree level of 5.0, which is defined in the Plan as "[o]ver three years and up to four years of experience."

Grievant stated she has to be aware of all the software used by the department, how the computer system works, and how to work with and on all the different computers in the department. She also pointed to the fact that it takes a long time to learn Marshall's practices and procedures.

Ms. Racer stated that the Experience point factor relates to the minimal amount of work experience, outside Marshall, one would need in order to be able to perform the duties of the position within the six month probationary period. She stated that no one is required to know how to do the job on the first day.

Grievant's testimony on this point factor represents her belief, and nothing more. On her PIQ Grievant had stated she felt six to eight years of experience was needed, but at the Level IV hearing, she had revised her estimate to three to four years. The JEC's expertise in classification decisions is given deference, and the undersigned cannot makea finding that the JEC was in error simply because Grievant disagrees with the JEC's conclusion.

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. Grievant argued her Job Title should have been assigned a degree level of 3.5 or 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.

A half level was assigned by the JEC in this point factor to Job Titles when some duties fell within one degree level, and some duties fell within the next highest degree level.

Grievant felt a higher degree level was warranted because she receives conflicting information from the computer user and the Marshall computer center, and she also has conflicting data when she does the inventory. She testified she does not follow guides, isrequired to come up with ways to reduce costs, there are not policies for everything she does, computers are constantly changing, and her job is stressful.

Ms. Racer felt that Grievant had some precedents and policies to follow.

Grievant did not describe how she goes about solving problems; however, it is quite clear that when Grievant is trying to diagnose a computer problem or an inventory problem, there are a limited number of solutions, and, particularly with computer problems, she would have a mental or written checklist of what to check first, second, third, fourth, and so on. If Grievant cannot solve the problem, she can go to her supervisor or the computer center. It is also clear that Grievant is not relying on theories of any professional discipline which have gaps to arrive at solutions, such as an accountant would rely upon for example. Grievant's duties do not fall within a degree level of 4.0. See Gregg v. Bd. of Trustees, Docket No. 94-MBOT-863 (Dec. 18, 1996) (Grievants had to be familiar with computer languages, not just normal software programs and hardware, and diagnose error messages in various languages, and were properly assigned a degree level of 2.0).

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 argued she should have received a degree level of 3.5 or 4.0 in this point factor, rather than a 3.0. 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 established institutional 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.

A half level was also assigned by the JEC in this point factor to Job Titles when some duties fell within one degree level, and some duties fell within the next highest degree level.

Grievant stated she works alone, and reports to her supervisor only as needed, such as when she gives him a report, when she has completed an assignment, or when she has a question. She stated each day is a surprise, and her tasks are not structured. She stated her supervisor gives her projects to work on, and gives her input only when she has a problem or question, and when she has finished the project.

Ms. Racer pointed out that Grievant is given deadlines by her supervisor, and she makes recommendations to him on how to cut costs, but it is her supervisor who makes the decisions. She noted that Grievant receives a call from a coworker that his or her computer is not working, and Grievant responds to that call.

While Grievant certainly does not know who is going to call or what the computer problem will be, Grievant is not working from broad goals when she responds to such issues. She is responding in the same way as an employee whose work is assigned by work orders, and, again, there are a limited number of solutions. It is understandable that Grievant would think that her duties fall within a degree level of 4.0 given the way the definition is written, but they do not. Grievant does not choose what she will do each day working from broad goals. What she does each day is primarily determined by what reports her supervisor has assigned her to do, what inventory needs to be ordered, what inventory has come in that needs to be checked and approved, and whose computer is notworking properly or needs to be upgraded. None of this falls within a degree level of 4.0. Stephenson, et al., v. Bd. of Trustees, Docket No. 94-MBOT-825 (Dec. 30, 1996).

5. Direct Supervision Exercised

> This factor measures the job's degree of direct supervision exercised over others in terms of the level of subordinate jobs in the organization, the nature of the work performed, and the number supervised. Only the formal assignment of such responsibility should be considered; informal work relationships should not be considered. Supervision of student workers may be taken into account if they are essential to the daily operation of the unit. The number of subordinates should be reported in full-time equivalency (FTE) and not head count.

This point factor consists of Number of Direct Subordinates, and Level of Supervision. Grievant acknowledged that the degree levels assigned to her Job Title are consistent with her testimony that she only supervises one employee. Grievant's complaint with this point factor is that there are other employees at Marshall who also only supervise one person, but they have been placed in Job Titles where the data line shows supervision of more than one person.

Grievant's confusion about this point factor is reflective of a misunderstanding of the higher education classification system. Not everyone in a particular Job Title has identical duties, or supervises the same number of people. Data lines are assigned to Job Titles, not individuals, based upon the duties of a majority of the individuals in the Job Title. This is part of making the classification system uniform to small colleges and large universities throughout the state. Accordingly, it is not surprising that there may be several individuals who supervise only one or two employees in a Job Title which has been assigned a degree level in Direct Supervision Exercised reflecting the supervision of a number of employees. The question is whether the individual is in the correct pay grade when all his duties are evaluated. If the individual is in the correct pay grade, and his job duties are such that the Job Title is appropriate, the fact that the data line for the Job Title reflects that multiple employees are supervised is of no consequence.

C. Summary Grievant has not demonstrated that the JEC was clearly wrong in assigning her Job Title to a pay grade 15.

D, Discrimination

Grievant argued she was demoted as a result of sexual discrimination. W. Va. Code § 29-6A-2(d) defines discrimination, for purposes of the grievance procedure, as:

> any differences in the treatment of employees unless such differences are related to the actual job responsibilities of the employees or agreed to in writing by the employees.

This definition encompasses all types of discrimination, including discrimination based upon gender.

It is not necessary to analyze Grievant's claims under the West Virginia Human Rights Act, as such claims are subsumed by Code § 29-6A-2(d). Clark v. Kanawha County Bd. of Educ., Docket No. 99-20-088 (Aug. 19, 1999). See Vest v. Bd. of Educ., 193 W. Va. 222, 455 S.E.2d 781 (1995); Hendricks v. W. Va. Dep't of Tax and Revenue, Docket No. 96-T&R-215 (Sept. 24, 1996); and Aglinsky v. Bd. of Trustees, Docket No. 95- BOT-387 (Jan. 31, 1995).

A grievant alleging discrimination must establish a prima facie case by demonstrating:

> (a) that he is similarly situated in a pertinent way, to one or more other employee(s);
>
> (b) that he has, to his detriment, been treated by his employer in a manner that the other employee(s) has/have not, in a significant particular;

and,

> (c) that such differences were unrelated to actual job responsibilities of the grievant and/or the other employee(s), and were not agreed to by the grievant in writing.

Steele, et al. v. Wayne County Bd. of Educ., Docket No. 89-50-260 (Oct. 19, 1989).

Once a prima facie case has been established, a presumption exists, which the employer may rebut by demonstrating a "legitimate, nondiscriminatory reason" for its action. Grievant may still prevail by establishing that the rationale given by the employer is "mere pretext". Id. Grievant believes she has been the victim of discrimination because she was the only Supervisor/PPSS who was moved from a pay grade 16, to a pay grade 15. The other supervisors to whom she referred are all male, and remain in a pay grade 16 classification.

Ms. Racer testified that when the JEC reviewed the PIQ's of the four employees in the Supervisor PPSS Job Title, it appeared that the jobs of the three males in that position were better described as Certified Grounds Supervisors, and that they did not do the same job as Grievant. The three males were placed in the Certified Supervisor of Grounds Job Title, and their duties were such that they remained in a pay grade 16. Grievant was left as the only employee in the Supervisor/PPSS Job Title.

Grievant has not demonstrated any discrimination. The reason the three male employees who were classified as Supervisor/PPSS were moved to a different Job Title in a pay grade 16 was because their duties were different from Grievant's. The undersigned has been presented with no evidence that these other employees were not properly placed in a pay grade 16 Job Title. However,

the evidence does support the placement of Grievant's Job Title within a pay grade 15.

The following Conclusions of Law support the decision reached.

Conclusions of Law

1. The higher education governing bodies 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 he is not properly classified. 156 C.S.R. 1 § 4.17.

3. The Job Evaluation Committee's interpretation and explanation of the Generic Job Description and point factors will be given great weight unless clearly wrong, where the proper classification of a grievant is almost entirely a factual determination. SeeTennant v. Marion Health Care Found., 194 W. Va. 97, 459 S.E.2d 374 (1995); Burke, et al., v. Bd. of Directors, Docket No. 94-MBOD-349 (Aug. 8, 1995).

4. The Job Evaluation Committee's decision that Grievant is properly classified as a Supervisor/Physical Plant Support Services, 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 Supervisor/Physical Plant Support Services Job Title is neither clearly wrong nor arbitrary and capricious.

6. The definition of discrimination found in the grievance procedure (W. Va. Code § 29-6A-2(d)) is broad enough to encompass all types of discrimination, including discrimination based upon gender. It is not necessary to analyze Grievant's claims under the West Virginia Human Rights Act, as such claims are subsumed by Code § 29-6A-2(d). Clark v. Kanawha County Bd. of Educ., Docket No. 99-20-088 (Aug. 19, 1999). See Vest v. Bd. of Educ., 193 W. Va. 222, 455 S.E.2d 781 (1995); Hendricks v. W. Va. Dep't of Tax and Revenue, Docket No. 96-T&R-215 (Sept. 24, 1996); and Aglinsky v. Bd. of Trustees, Docket No. 95-BOT-387 (Jan. 31, 1995).

7. A grievant alleging discrimination must establish a prima facie case by demonstrating:

(a) that he is similarly situated in a pertinent way, to one or more other employee(s);

> (b) that he has, to his detriment, been treated by his employer in a manner that the other employee(s) has/have not, in a significant particular;

and,

> (c) that such differences were unrelated to actual job responsibilities of the grievant and/or the other employee(s), and were not agreed to by the grievant in writing.

Steele, et al. v. Wayne County Bd. of Educ., Docket No. 89-50-260 (Oct. 19, 1989).

8. Once a prima facie case has been established, a presumption exists, which the employer may rebut by demonstrating a "legitimate, nondiscriminatory reason" for itsaction. Grievant may still prevail by establishing that the rationale given by the employer is "mere pretext". Id.

9. Grievant did not demonstrate she was discriminated against.

Accordingly, the grievance 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 § 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. 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: October 31, 2003

Footnote: 1

The grievance was filed on June 12, 2003, after Grievant was notified of her new pay grade, to be effective July 1, 2003. Grievant's supervisor responded at Level I that he was unable to grant the relief sought, and the same response was given at Level II. Grievant appealed to Level III, where a hearing was held on July 8, 2003. A Level III decision was issued on July 11, 2003, denying the grievance. Grievant appealed to Level IV on July 21, 2003. A Level IV hearing was

held on September 16, 2003. Grievant represented herself, and Respondent was represented by Jendonnae Houdyschell, Esquire. This matter became mature for decision on October 10, 2003, upon receipt of Respondent's post- hearing written argument. Grievant declined to submit written argument.

Footnote: 2

The thirteen point factors are set forth in 128 C.S.R. 62 § 2.27, and 131 C.S.R. 62 § 2.27. Burke, et al., v. Bd. of Directors, Docket No. 94-MBOD-349 (Aug. 8, 1995).

Footnote: 3

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, Docket No. 94- MBOT-1059 (Oct. 26, 1995); and Zara, et al., v. Bd. of Trustees, Docket No. 94-MBOT-817 (Dec. 12, 1995).

Footnote: 4

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: 5

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