ANTOINETTE J. WOODING, .

Grievant, .

.

.

v. . Docket No. 94-HHR-082

.

.

.

WEST VIRGINIA DEPARTMENT OF HEALTH .

AND HUMAN RESOURCES at HUNTINGTON .

STATE HOSPITAL and WEST VIRGINIA .

DIVISION OF PERSONNEL, .

.

Employer. .

D E C I S I O N

Antoinette Wooding (hereinafter Grievant) filed this grievance at level one of the Grievance Procedure, West Virginia Code §29-6A-1 et seq., on January 7, 1993, claiming that she is improperly classified as an Office Assistant III by the West Virginia Division of Personnel (hereinafter Personnel). (See footnote 1) The case proceeded through the lower levels and appeal was made to level four on November 15,1993. A hearing was held on March 15, 1994, and the case became mature for decision.

Because this case involves an issue of proper classification, the classification specifications at issue herein are reproduced below, in pertinent part, as follows:

Office Assistant III

Nature of Work

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

Distinguishing Characteristics

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

Examples of Work

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

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

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

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

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

Trains new employees in proper work methods and procedures.

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

Receives, sorts and distributes incoming and outgoing mail.

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

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

Files records and reports.

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

Secretary II

Nature of Work

Under general supervision, at the full-performance level, provides clerical and administrative relief, exercising discretion and independent judgment. May sign supervisor's name to routine memorandums, correspondence and forms. Attends meeting in the supervisor's absence or on the supervisor's behalf. Necessity for dictation, familiarity with word processor and other special requirements vary depending upon supervisor's preference.

Distinguishing Characteristics

Work at this level is characterized by the level of administrative support performed. Typically, duties such as researching a variety of sources (library, division archives, past practice documents, outside private sources, etc.), attending meetings for supervisor where interpretation of information gathered is necessary, and coordinating the activities of section, unit, etc., are characteristic of this level.

At this level, the work requires the application of specific knowledge necessary to complete complex procedural or unusual assignments. Incumbent determines appropriate procedures from among various and variable methods, resources, and processes, or devises innovative methods to accomplish assignment. Incumbent is responsible for his/her own work, and may assign, direct, or supervise the work of others. Although some tasks are defined and self-explanatory, the incumbent works closely with supervisor to set objectives, priorities, and deadlines; may independently set goals and time frames for individual work assignments. Work is typically reviewed randomly upon completion for adherence to guidelines. Contacts at this level are frequent, typically varied and non-routine. Incumbent answers procedural or program inquiries, whenever possible, or refers. Contacts are frequently of a confidential or sensitive nature and require tact.

Examples of Work

Coordinates activities associated with the functions of the division/section/unit, planning and implementing office procedures.

Researches basic statistical work in the completion of reports involving the activities of the division/section/unit.

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

Answers telephone, screens calls, and places outgoing calls,

Screens mail and responds to routine correspondence.

Schedules appointments and makes travel arrangements and reservations for supervisor.

Signs, as directed, supervisor's name to routine correspondence, requisitions, and other documents.

Attends meetings with or on behalf of supervisor to take notes or deliver basic information.

Takes and transcribes dictation, or transcribes from dictation equipment.

Composes form letters, routine correspondence, and factual reports requiring judgment and originality.

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

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

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

May maintain bookkeeping records for grants, contract or state appropriated funds or related departmental accounts.

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

May assign and review the work of others.

In order for Grievant to prevail upon a claim of misclassification, she must prove by a preponderance of the evidence that her duties for the relevant period more closely 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 areto 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 the Work" section of a classification specification is its most critical section. 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 HHR/Division of Personnel, Docket No. 90-H-433 (Mar. 28, 1991). The predominant duties of the position in question are class-controlling. Broaddus v. W.Va. Div. of Human Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). Finally, Personnel's interpretation and explanation of the classification specifications at issue, if said language is determined to be ambiguous, should be given great weight unless clearly erroneous. See, W.Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (1993).

Findings of Fact

1. Grievant works at Huntington State Hospital (hereinafter Hospital) within its Quality Assurance/Risk Management Department.

2. Grievant's supervisor is the Quality Assurance/Risk Management Director. Occasionally, she also performs work for other administrators within the Hospital.

3. In a January 1, 1993 Personnel Position Description Form, Grievant described the function of her position, in general, as follows: "Coordinates and manages all office functions for the Quality Assurance/Risk Management Department at Huntington State Hospital. Facilitates committee processes including scheduling, preparation of agendas, minutes and follow-up memoranda with subsequent hospital-wide distribution or relevant materials."

4. The Quality Assurance/Risk Management Department's function is to assure that all Hospital departments maintain quality improvement. Grievant's office receives and maintains paperwork, files, surveys and evaluation reports from all and for all Hospital departments concerning those departments' level of performance and safety. Grievant's department maintains records, reports and manuals to be used in receiving and updating various accredidations. It also interacts with various accrediting entities during external audits and reviews concerning the Hospital's facilities and the care given to the patients.

5. Grievant prepares various documents for her supervisor and uses a stamp of her supervisor's signature to finalize these documents, i.e., checks, purchase orders, time sheets and

work reports.

6. She releases information to individuals regarding incident and accident reports which contain confidential orpersonnel information such as patient satisfaction surveys or drug interaction reports.

7. She attends meetings with her supervisor or on her supervisor's behalf. Afterwards, she transcribes and summarizes the minutes of these meetings.

8. She compiles information for reports which are prepared at various intervals and maintains nineteen separate departmental manuals.

9. She uses a word processor for preparing memoranda, reports, correspondence, forms, graphs, etc.

10. She receives and distributes mail, answers the telephone, maintains various logs, researches data to complete reports and logs, schedules appointments and meetings, uses word processors and other office machines and takes dictation.

11. She proofreads her own work, reports, meeting minutes and correspondence before submitting them to her supervisor.

12. She occasionally conducts new clerical employee orientation programs in the absence of her supervisor.

13. She receives requests for medical records, compiles those records and provides the necessary information to the entity requesting such.

14. She has the ability to delegate clerical work to one other employee.

Discussion

Grievant contends that the nature of her duties and the duties themselves are properly described by the Secretary II classification specification. She testified that she exercises independent judgment and discretion because she is able to speak for and sign documents for her supervisor in her absence. She also testified that she works with confidential and sensitive material in providing information to various entities. For the above reasons, she contends that she is misclassified as an Office Assistant III. It is also the Employer's opinion that Grievant should be classified within the Secretary classification series.

Personnel avers that Grievant is properly classified because she performs advanced level office support, clerical work. Lowell D. Basford, Assistant Director/Classification and Compensation

Division, testified that Grievant should not be classified under the Secretary series because she does not perform, as a predominant part of her duties, administrative duties as relief for her supervisor. He also testified that it was Personnel's purpose in creating the Secretary classification during the recent reclassification study to create a classification which applied to incumbents who perform administrative and clerical duties for particular levels of administrators. It is Personnel's contention that incumbents within the Secretary II classification must work for and be supervised by regional administrators and program managers of large, complex agencies. Finally, Personnelasserts that Grievant does not exercise the type of independent judgment contemplated by the Secretary II classification specification nor does she have the authority to act in the stead of her supervisor in making policy and decisions within the department as required by that class title.

Although Grievant does appear to perform some of the duties listed within the Secretary II classification specification, the record does not establish that she spends a predominant portion of her time providing administrative relief to her superior. The majority of her time is spent performing clerical duties. Grievant may perform some duties which require the exercise of discretion and independent judgment but not at the level contemplated by the Secretary II classification specification and not in relief of duties for which her supervisor would necessarily be responsible. Even though Grievant has been given the authority to control the flow of various documents, answer questions and maintain records for certain reports, she has not assumed these duties during the absence of the director of her department.

In reference to the distinguishing characteristics section of the Secretary II classification specification, Grievant has not established that she attends meetings in place of her supervisor where she is required to interpret information, policies or programs. Further, there was no evidence that Grievant performs research of any librarysources, division archives, past practice documents or outside private sources. The research that Grievant performs is really data manipulation of information contained within the Hospital's own files or computer files she has created. Finally, there was no evidence that Grievant works with her supervisor to set objectives, priorities or deadlines within her office.

The foregoing discussion of the facts of the case and of the law applicable to those facts is hereby supplemented by the following appropriate conclusions of law.

Conclusions of Law

1. The predominant job duties performed by Grievant are clerical in nature.

2. Grievant has not proven by a preponderance of the evidence that she is improperly classified as an Office Assistant III or that the classification of Secretary II is a "best fit" for her job duties.

Therefore, this grievance is hereby **DENIED**.

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

_____

ALBERT C. DUNN, JR.

Administrative Law Judge

June 1, 1994

Footnote: 1Four grievants filed jointly at level one and the case proceeded through the lower levels of the grievance procedure. When the case was appealed to level four, the style of the case was Hutchinson, et al. v. W.Va. Dept. of HHR/Div. of Personnel, Docket No. 93-HHR-466. After the appeal but before the case was heard at level four, three of the four grievants below withdrew their grievance and the case was assigned the current style.