CAROLYN J. ARNO, .

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Grievant, .

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v. . Docket No. 93-HHR-407

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WEST VIRGINIA DEPARTMENT OF HEALTH .

AND HUMAN RESOURCES at CHILD ADVOCATE .

OFFICE / WEST VIRGINIA DIVISION OF .

PERSONNEL .

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Employer. .

D E C I S I O N

Carolyn Arno (hereinafter Grievant) appealed the instant complaint to level four of the Grievance Procedure, W.Va. Code §29-6A-1 et seq., on October 1, 1993. A hearing was held on January 12, 1994. Grievant contends that she is misclassified as an Office Assistant III because she performs the duties associated with and described by the classification specification of Secretary I. The classification specifications at issue are reproduced herein as follows:

Secretary I

Nature of Work

Under general supervision, at the full-performance level, relieves supervisor of clerical and minor administrative duties, exercising discretion and independent judgment. Necessity for dictation, familiarity with word processors, and other special requirements vary depending upon supervisor's preference. Performs related work as

required.

Distinguishing Characteristics

This class is distinguished from the Office Assistant series by the assignment of support duties to a specific individual overseeing a section, or a division. The incumbent composes routine correspondence for the supervisor, screens calls and visitors and responds to inquiries requesting knowledge regarding office procedure, policy and guidelines, and program information. The position has limited authority to speak for the supervisor.

At this level, the work requires the knowledge necessary to complete complex procedural assignments. Incumbent determines appropriate procedures from among a variety of resources, methods and processes. Incumbent is responsible for his/her own work, and may assign and direct the work of others. Although some tasks are defined and self-explanatory, the objectives, priorities, and deadlines are made by the supervisor. Work is reviewed, usually upon completion, for conformance to guidelines. Contacts at this level are frequent and often non-routine and/or of a confidential or sensitive nature, requiring tact and the ability to judge which inquires can be answered or must be referred.

Examples of Work

Responds to inquires where knowledge of unit policy, procedure, and guidelines is required.

Answers telephone, screens calls, and places outgoing calls.

Screens mail and responds to routine correspondence.

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

Schedules appointments and makes travel arrangements and reservations for supervisor.

Takes and transcribes dictation, or transcribes from dictation equipment.

Composes from letters, routine correspondence, and factual reports.

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

Gathers, requests, and/or provides factual information requiring reference to variety of sources. May delegate routine typing, filing, and posting duties to subordinate clerical personnel.

May maintain basic bookkeeping records for grants, contract or state appropriated funds.

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

May attend meetings take notes and relay information; typically would not interpret information or speak on behalf of supervisor.

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.

Discussion

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 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 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 currentclassification 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).

In this case, the first task is to draw a meaningful distinction between the classification specifications at issue by reviewing the documents from top down. On some occasions, it is not only helpful but necessary to review the specifications as a whole in order to comprehend the subtle differences between the two jobs described. Here, it is determined that the difference between the Secretary I specification and the Office Assistant III specification is based upon the incumbent's working relationship to his/her supervisor. The Secretary I specification anticipates that the employee must necessarily relieve his/her supervisor of both **clerical** and minor **administrative** duties while exercising discretion and independent judgment. The Office Assistant specification focuses not on

any level of supervisory relationship but upon the performance of complex clerical tasks involving the interpretation and application of office policies and procedures. Both specifications anticipate that the incumbent will performroutine and complex clerical duties but the Secretary I position requires the employee to perform some of the minor duties performed by his/her superior. An incumbent who is assigned the position of Office Assistant III is only held responsible for the performance of their own regularly scheduled, routine clerical work. The following findings of fact are derived from the record developed by the parties.

Findings of Fact

1. Grievant is employed as an Office Assistant III and has held that classification since the Division of Personnel completed its statewide reclassification project within the Department of Health and Human Resources. Prior to this reclassification project, Grievant has been classified as a Secretary I for approximately six years.

2. Grievant's immediate supervisor is the Child Advocate Attorney, William Sinclair.

3. Grievant is the only full-time support person in the Child Advocate Office which is located in Moundsville.

4. Grievant delegates work to a temporary employee assigned to her office three days per week. She also supervises the clerical duties performed by this employee. At various other times, Grievant has supervised other temporary clerical employees.

5. At times, Grievant has conducted word processing training sessions for clerical employees within the Employer's local offices.

6. Grievant takes work assignments from either the office's Administrative Assistant and/or from six legal assistants if she has time to complete the tasks. These assignments would generally include typing or word processing.

7. Grievant has conducted job interviews of part-time, temporary clerical employees.

8. Grievant coordinates the scheduling of blood tests with in-state and out-of-state laboratories for individuals involved in paternity suits.

9. Grievant spends more than one-half of her work day working on a word processor preparing reports, documents and correspondence.

10. Grievant takes dictation from the Child Advocate Attorney.

11. Grievant is responsible for having various legal documents filed with and/or signed by judicial personnel.

12. Grievant screens phone calls and mail for the Child Advocate Attorney.

13. Grievant is the only full-time employee in the Child Advocate Office who performs clerical work.

14. Grievant does not relieve her supervisor of any administrative duties and the predominant portion of her day-to-day assignments are clerical and routine in nature.

15. Grievant does not provide interpretations of office policies, rules or procedures to individuals outside of the Child Advocate Office.

16. Grievant does not perform in instances where she is required to "speak for her supervisor."

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. Grievant has failed to prove by a preponderance of the evidence that she is improperly classified as an Office Assistant III based upon a review of her normally assigned duties and responsibilities.

2. Personnel's interpretation of the two classification specifications at issue in this case is not determined to be clearly wrong as applied to the facts established by Grievant. Blankenship, supra.

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.

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ALBERT C. DUNN, JR.

Administrative Law Judge

April 27, 1994