ISORA O'DELL,

Grievant,

v. **Docket No. 97-CORR-439**

DIVISION OF CORRECTIONS/ANTHONY CORRECTIONAL CENTER and DIVISION OF PERSONNEL,

Respondents.

D E C I S I O N

Grievant, Isora O'Dell, filed this grievance over her classification on January 14, 1997, and stated " I am classified as an Office Assistant III, and I believe that I perform the duties of a Corrections Program Specialist." The relief she seeks is reclassification to a Corrections Program Specialist at Pay Grade 11, back pay from January 1, 1996, and any other compensation that might be due. This grievance was denied at Levels I, II, and III, and then appealed to Level IV. A Level IV hearing was held on December 4, 1997. (See footnote 1) This case became mature for decision on January 30, 1998, the deadline for the parties' proposed Findings of Fact and Conclusions of Law.

After a through review of the record in its entirety, the undersigned Administrative Law Judge makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. Grievant is presently classified as an Office Assistant III ("OA III") at Pay Grade 6, with a working title of Records Clerk at the Anthony Correctional Center ("ACC").

2. ACC is a facility for youthful offenders between the ages of 18 and 21. The length of stay is from six months to two years. This facility currently houses approximately 100 inmates.

3. Grievant, a full-time cook at the time of the OA III, posting, applied for the position when it was first posted in November of 1995.

4. Grievant described her duties as: 1) reviewing court orders for accuracy and content, placing

these orders in the correct file, and notifying staff of the contents of these orders; 2) maintaining a correct count of the inmates at ACC on a daily, weekly, and yearly basis; 3) training other employees about ACC's records; (See footnote 2) 4) calculating changes in the length of stay for an inmate when he receives additional time; 5) requesting clarification on documents from internal and external sources; 6) submitting data to other agencies about inmates; and 7) filing, copying, sending, and tracking a variety of court orders and documents placed in the inmates' files.

5. According to Grievant's Position Description Form ("PDF"), completed on March 25, 1997, the general functions of her position are to create and maintain files on each inmate; file or input data on inmates in the proper places; update computer screens with new or additional data; distribute this information to the proper parties; and correspond with persons outside the facility, as needed, to obtain information and answer questions. 6. Grievant's PDF notes she spends the majority of her time: 1) preparing and maintaining a file on each inmate at ACC; 2) tracking and inputting data in a variety of computer programs; 3) preparing lists and rosters of inmates concerning their admission, movement, and discharge; and 4) contacting internal and external sources such as Corrections personnel, judges' offices, and probation officers, for the exchange of information.

7. Grievant's PDF notes she is required to type 85% of the time. Level IV, Jt. Ex. 1.

8. Grievant does not function as a lead worker or supervise any employees. 9. At the larger correctional institutions the individual in charge of records is usually classified as a CPS. (See footnote 3)

10. In Spring 1997, Grievant requested a job audit to establish she was misclassified. DOP reviewed the newly completed PDF and informed Grievant she was not misclassified.

11. After receiving this response, Grievant requested a desk audit. This desk audit was preformed on May 6, 1997. In a May 16, 1997 letter, then Director Robert Stephens informed Grievant she was properly classified. He explained Grievant's duties "revealed an absence of the evaluation and analysis of the program or service areas and the development of policies and procedures" that are "characteristics of a Corrections Program Specialist." The class Specifications of the positions at issue are reprinted below: (See footnote 4)

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: Performs 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 the database and analyze data for management.

Knowledge, Skills and Abilities

Knowledge of office methods of practices and procedures.

Knowledge of business English, spelling and arithmetic.

Knowledge of program operations and policies with respect to general functions performed.

Ability to maintain or supervise the maintenance of records of some complexity and to prepare reports and tabulations from these records.

Ability to establish and maintain effective working relationships with other employees and the public.

Ability to understand and effectively carry out complex oral and written directions.

Minimum Qualifications

Training: Graduation from a standard high school or the equivalent

Experience: Four (4) years of full-time or equivalent part- time paid experience performing routine office work.

Substitution: College hours, related business school, or vocational training may be substituted through an established formula for the required experience.

CORRECTIONS PROGRAM SPECIALIST

Nature of Work: Under general supervision, performs work at the full-performance level in the implementation and evaluation of and technical assistance for programs/services characteristic of Division of Corrections or the Regional Jail and Correctional Facility Authority. Serves in a staff specialist or technical assistant role to ensure compliance with federal, state and local regulations relating to the program or service area. Performs the full range of specialized tasks relating to the program area to include analysis and comprehension of program/services regulations, development and implementation of action plans to achieve desired results, coordination and collaboration with inter- and intra- agency personnel, writing program procedure manuals, compilation of regular and special reports on program status and the signing and review of work to support staff or other specialists. Although regulations, methods and procedures in the program area are available, employee may exercise independent judgement and latitude in the work performed. Performs related work as required.

Distinguishing Characteristics: The Corrections Program Specialist is distinguished from the Corrections Program, Senior class by the absence of lead work or supervisory responsibilities over professional staff and, in relation to the Senior level, the limited complexity of the programs/services provided.

Examples of Work

Acquires working familiarity with applicable laws, regulations, policies and procedures and interprets/applies same to the functional area.

Compiles or oversees the compilation of program-specific data for the preparation of regular and special reports on program compliance and status.

Represents the program unit with inter- and intra- agency personnel related to the program/service area.

Collaborates with educational, health, social services, and rehabilitation agencies in the provision of services to inmate population.

Develops policies and procedures for implementation of programs; conducts periodic evaluation of program operation to determine effectiveness and compliance.

May lead or supervise security and/or support staff.

Knowledge, Skills and Abilities

Knowledge of modern theories, principles and practices in the field of corrections.

Knowledge of state and federal laws and regulations relating to corrections.

Ability to implement and evaluate correctional programs/ services at the institutional level.

Ability to provide technical assistance on correctional programs and/or services.

Ability to coordinate programs/services on an inter- and intra- agency level.

Ability to develop and maintain effective working relationships with educational, health, social services and rehabilitation agencies.

Ability to maintain records of program operations.

Ability to communicate effectively, orally and in writing.

Minimum Qualifications

Training: Graduation from an accredited four-year college or university with a degree in criminal justice, corrections, social work or related behavioral science field.

Substitution: Full-time or equivalent part-time paid experience as described below may substitute for the required training on a year-for-year basis.

Experience: Two years of full-time or equivalent part-time paid professional experience in a corrections, probation/ parole, law enforcement, social work, recreation, religion or related behavioral science field.

Substitution: Master's Degree from an accredited college or university in criminal justice, corrections, social work or related behavioral science field may substitute for the required experience on a year-for-year basis.

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 match another cited Personnel classification specification than the one to 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., top to bottom, with the different sections to be considered as going from the more general/more critical to the more specific/less critical, Captain v. W. Va. Div. of Health, Docket No. 90-H-471 (Apr. 4, 1991); for these purposes, the "Nature of Work" section of a classification specification is its most critical section. Atchison v. W. Va. Div. of Health, Docket No. 90-H-444 (Apr. 22, 1991); See generally, Dollison v. W. Va. Dept. of Employment Security, Docket No. 89-ES-101 (Nov. 3, 1989).

The key to the analysis is to ascertain whether Grievant's current classification constitutes the "best fit" for her required duties. Propst v. W. Va. Dept. of Health and Human Resources/W. Va. Div. of Personnel, Docket No. 93-HHR-371 (Dec. 3, 1993); Simmons v. W. Va. Dept. of Health and Human Resources/Div. 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 No. 89-DHS-606, 607, 609 (Aug. 31, 1990). Additionally, class specifications are descriptive only and are not meant to be restrictive. Mention of one quality or requirement does not exclude others. W. Va. Admin. Rules §4.04(a). Even though a

job description does not include all the actual tasks performed by a grievant, it does not make that job classification invalid. Id. at §4.04(d). Finally, Personnel's interpretation and explanation of the classification specifications should be given great weight unless clearly erroneous. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993). Thus a grievant attempting to establish she is misclassified has a difficult task due to the deference afforded DOP in classification matters. It is clear Grievant truly believes that when she performs her regular duties, such as reviewing an order from a circuit court, or responding to a request from Social Security, she is analyzing and evaluating data. It is also clear Grievant believes that when she initiates a change, such as requesting the unit manager to double-check an inmate's file routinely before discharge, she is developing policies. Although these reviewing and responding duties are important, and suggesting the change to double check records appears helpful to Grievant's accuracy, these actions do not involve analysis or evaluation or the development of policies.

The American Heritage Dictionary, (2d. Ed., 1991), defines the term "analyze" as "[t]o separate into parts or basic principles so as to determine the nature of the whole; examine methodically", the term "evaluate" as "[t]o examine and judge carefully", and the term "develop" as "[t]o set forth or clarify by degrees . . . [t]o elaborate or enlarge." Id. at 106, 388, & 469. Grievant's job duties are to review materials, input data, calculate lengths of stay, request additional information, apply the youthful offenders statute to the records department, and respond to inquiries. Although these duties are important and need to be done accurately, (See footnote 5) they do not encompass the activities of evaluation, analysis, and policy development.

A review of the class specifications for an OA III establishes this position performs advanced level, complex, clerical tasks and interprets and applies regulations. An OA IIIcommunicates with a wide variety of people including officials and the general public. Additionally, an OA III reviews orders for accuracy, maintains and processes files and documents, researches files for information and statistics for reports, trains new employees, and operates various computer screens and menus to enter, access, update, and manipulate data. All the functions Grievant performs are encompassed in the OA III class specifications, and thus, this Job Description is the "best fit" for Grievant's job duties.

As for the CPS Job Description, Grievant stated she performed the same duties that employees classified in this position did, but presented no data or documents to support this allegation. Other general testimony was that CPS's were usually in charge of the records room at the larger Correctional facilities, had more complex job duties, and frequently supervised clerical staff. A review of the class specifications for a CPS demonstrates this employee routinely evaluates and analyzes programs and services, develops and implements action plans, writes program procedure manuals, and collaborates with various agencies to provide services to the inmate population. Grievant has not met her burden of proof and demonstrated she performs the duties of a CPS.

The above-discussion will be supplemented by the following Conclusions of Law.

Conclusions of Law

1. 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 match another cited Personnel classification specification than the one to which she is currently assigned. See generally, Hayes v. W. Va. Dept. of Natural Resources, Docket No. NR-88- 038 (Mar. 28, 1989). 2. Grievant has failed to demonstrate by a preponderance of the evidence she is misclassified or the CPS position is the "best fit' for her normal duties.

Accordingly, this grievance is 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.

_____

JANIS I. REYNOLDS

Administrative Law Judge

Dated: May 22, 1998

Footnote: 1

Grievant was represented by Mr. Barry Bruce, the Division of Corrections was represented by Ms. Leslie Kiser, and the Division of Personnel was represented by Mr. Lowell Basford.

Footnote: 2

These employees are individuals who are not assigned to the records room, but who might need to know where files are kept in Grievant's absence.

Footnote: 3

Although Grievant indicated at Level III that she had the PDF's from several individuals classified as CPS, and they did the same duties she did, these documents were not submitted into evidence.

Footnote: 4

Whether Grievant met the minimum qualification for the CPS position was not discussed by any party during the presentation of evidence. It appears from the evidence presented, Grievant did not meet the minimum qualifications. Because of the outcome of this grievance there is no need to address this issue further.

Footnote: 5

Before Grievant became the Records Clerk, certain important documents an inmate needed to take with him were not being picked up by the staff. Grievant initiated the process of placing these documents in a discharge box, and then notified the staff of the location of this box by memo. Grievant used this idea as an example of analysis, evaluation, and development of policies.