

Issue: Qualification/Position/Classification/Working out of class - Failure to take action;  
Ruling date: July 9, 2003; Ruling #2003-110; Agency: Virginia Community College  
System; Outcome: not qualified



*COMMONWEALTH of VIRGINIA*  
*Department of Employment Dispute Resolution*

QUALIFICATION RULING OF DIRECTOR

In the matter of Virginia Highlands Community College/ No. 2003-110  
July 9, 2003

The grievant has requested a ruling on whether her April 24, 2003 grievance with Virginia Highlands Community College (VHCC) qualifies for a hearing. The grievant claims that the college unfairly applied state and agency compensation policy when it failed to grant her a salary adjustment of 15% following changes to her job responsibilities. For the following reasons, this grievance does not qualify for a hearing.

FACTS

The grievant is the Bookstore Manager for VHCC. Prior to 1999, the bookstore was located near the College's Business Office and the Business Manager supervised the bookstore and its employees. In 1999, the bookstore relocated to the Southwest Virginia Higher Education Center in order to serve VHCC and five other universities more effectively. With this move, the grievant took on additional responsibilities, including but not limited to the management of a larger space and a larger inventory.<sup>1</sup> The grievant received a 9.3% salary increase at this time to reflect the additional complexity and responsibility of her position.

Until November 1, 2002, the grievant was classified as an Administrative and Program Specialist IV (Pay Band 4). Following compensation reform, the Department of Human Resources Management (DHRM) changed the position title to General Administrative Supervisor I, but the change did not affect the grievant's job responsibilities or duties.<sup>2</sup> In July 2002, the grievant assumed supervisory responsibility

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<sup>1</sup> See Analysis of Position Reallocation Request, dated June 18, 1999. The College claims that the grievant also assumed the responsibility of the day-to-day supervision of the bookstore at this time. The grievant disputes this claim, stating that she did not become supervisor of the bookstore until 2002. The agency notes that, although the grievant was not the "supervisor of record" following the 1999 changes, she was in charge of directing and scheduling employees. See Third Step Response, dated May 28, 2003. See also Analysis of Position Reallocation Request, dated June 18, 1999.

<sup>2</sup> See Grievant's Employee Work Profile, dated November 1, 2002. See also Second Step Response, dated May 15, 2003.

over two full-time employees and various hourly and work-study positions. Moreover, the bookstore began maintaining and distributing the office supply inventory for VHCC, a duty that formerly belonged to Staff Services in the Business Office. The grievant further claims that these additional responsibilities resulted in increased accounting duties, including billing and collecting. At this time, the grievant began reporting to the Vice President for Finance and Administration, rather than to the Business Manager.

The grievant requested an in-band adjustment of 15% to reflect the additional duties and responsibilities assigned to her in July 2002. The College reviewed her position and recommended a role change from General Administrative Supervisor I (Pay Band 4) to Retail Manager II (also Pay Band 4), based on the position description. Moreover, the College further recommended a 5% increase in salary based on the grievant's increased responsibility.<sup>3</sup> The grievant does not dispute that her duties are properly classified as a Retail Manager II, but claims that a 5% salary increase is not commensurate to the changes in her position.<sup>4</sup>

### DISCUSSION

For an allegation of misapplication or unfair application of policy to qualify for a hearing, there must be facts that raise a sufficient question as to whether management violated a mandatory policy provision, or whether the challenged action, in its totality, was so unfair as to amount to a disregard of the intent of the applicable policy.

The primary policy implicated in this grievance is Department of Human Resource Management (DHRM) Policy 3.05, which, pursuant to the Commonwealth's compensation plan, requires all agencies, among other things, to develop an agency Salary Administration Plan (SAP).<sup>5</sup> An SAP outlines how the agency will implement the Commonwealth's compensation management system, and is "the foundation for ensuring consistent application of pay decisions."<sup>6</sup> The College has complied with this requirement by developing its Pay Practices Plan, which describes the process by which in-band pay adjustments based on lateral role changes may be awarded to deserving employees.

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<sup>3</sup> See Analysis of Role Change Request, dated February 19, 2003 (recommending role change with 5% pay increase based on increased complexity of position).

<sup>4</sup> The grievant also raised concerns in her grievance that, in addition to her change in duties, her position changed to exempt status under the Fair Labor Standards Act (FLSA). However, she stated during this Department's investigation that she is not challenging the status change in her grievance. Rather, she was using the change in FLSA status to illustrate that a 5% increase in pay was insufficient, because her *true* increase, with the loss of overtime payments, is more like 2%.

<sup>5</sup> See generally DHRM Policy 3.05 (effective 9/25/00, revised 3/01/01). The SAP "addresses the agency's internal compensation philosophy and policies; responsibilities and approval processes; recruitment and selection process; performance management; administration of pay practices; program evaluation; appeal process; EEO considerations and the communication plan." DHRM Policy 3.05, page 1 of 21.

<sup>6</sup> DHRM Policy 3.05, page 1 of 21.

Under DHRM Policy and the Pay Practices Plan, a lateral role change is described as a change “to a different Role in the same Pay Band.”<sup>7</sup> Moreover, management may grant a 0% to 10% salary increase, which is the same percentage increase available for an in-band adjustment.<sup>8</sup> In-band adjustments allow progression within a Pay Band based on (1) a change in duties, (2) professional development, (3) retention, or (4) internal alignment.<sup>9</sup> College policy further states that in order to qualify for an in-band adjustment *based on a change in duties*, the employee’s responsibilities must change by at least 15%.<sup>10</sup> VHCC’s Pay Practices Plan confers to the College the authority to determine not only the amount of in-band adjustments but, more importantly, whether to grant such a salary increase in the first place. In this case, the grievant is claiming that her increased responsibilities warrant an in-band adjustment of 15%.

Here, however, the grievant experienced a lateral role change from General Administrative Supervisor I to Retail Manager II. Both roles are in Pay Band 4.<sup>11</sup> Accordingly, under state and college policies, the grievant could have received a salary adjustment anywhere between \$30,542 (the grievant’s current salary at the time) and \$33,596 (10% over the grievant’s current salary). The grievant was approved for a salary of \$32,069, a 5% increase from her current salary. This salary fell within the parameters set by policy. The grievant’s request for a 15% salary increase is *above* what is allowable under policy. Therefore, it would have been a misapplication of policy to grant the grievant’s request.

While the grievant may be disappointed with a 5% salary increase, VHCC properly applied the policy guidelines in offering this salary to the grievant. Its action did not violate a mandatory policy provision nor was it so unfair as to amount to a disregard of the intent of the applicable policy. Indeed, in cases of lateral role changes and in-band adjustments, the College has the discretion whether or not to grant salary increases, and to determine the amount of increases, if any.<sup>12</sup>

#### APPEAL RIGHTS AND OTHER INFORMATION

For information regarding the actions the grievant may take as a result of this ruling, please refer to the enclosed sheet. If the grievant wishes to appeal the

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<sup>7</sup> DHRM Policy 3.05, “Role Change,” page 10 of 21; VHCC’s Pay Practices Plan, “Role Change,” page 4.

<sup>8</sup> *Id.*

<sup>9</sup> DHRM Policy 3.05, “Definitions,” page 2 of 21. In-band salary increases may not exceed 10% in a fiscal year. DHRM Policy 3.05, “In-Band Adjustments,” page 11 of 21. *See also* Pay Practices Plan, “In-Band Adjustments,” pages 4-5.

<sup>10</sup> Pay Practices Plan, “In-Band Adjustments,” page 5.

<sup>11</sup> The salary range for positions in Pay Band 4 is \$26,722 to \$54,842. *See* <http://www.dhrm.state.va.us/compensation/salarystructure.html> <last visited June 18, 2003>.

<sup>12</sup> *Id.* College policy expressly states that “[t]he specific amount of the increase will be determined by the College. Employees should not consider In-Band Adjustments an entitlement. The use of any of the adjustments is not mandatory.” *Id.*

qualification determination to the circuit court, the grievant should notify the human resources office, in writing, within five workdays of receipt of this ruling. If the court should qualify this grievance, within five workdays of receipt of the court's decision, the agency will request the appointment of a hearing officer unless the grievant wishes to conclude the grievance and notifies the agency of that desire.

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Claudia T. Farr  
Director

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