

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

George L. Lopez,

Case Nos.: 08-REC-03-0054  
08-RED-03-0055

*Appellant,*

v.

Department of Rehabilitation and Correction,  
Parole and Community Services,  
and  
Department of Administrative Services,

*Appellees.*

**ORDER**

This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that Appellee, Department of Administrative Services' determination that Appellant's position be reclassified as Labor Relations Officer 1, classification number 63471 be **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14.

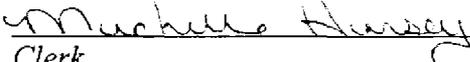
Lumpe - Aye  
Sfalcin - Aye  
Tillery - Aye

  
\_\_\_\_\_  
J. Richard Lumpe, *Chairman*

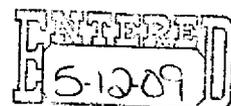
**CERTIFICATION**

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes ~~(the original)~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, May 12, 2009.

  
\_\_\_\_\_  
Michelle Hursey  
Clerk

**NOTE:** Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.



**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

George L. Lopez,

*Appellant*

v.

Case No. 08-REC-03-0054

Case No. 08-RED-03-0055

February 26, 2009

Ohio Department of Rehabilitation and Correction,  
Parole and Community Services

and

Ohio Department of Administrative Services,

*Appellees*

Christopher R. Young

*Administrative Law Judge*

**NUNC PRO TUNC  
REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on September 15, 2008, at 10:00 a.m. Present at the hearing were the Appellant, George Lopez, appearing *pro se*, and the Appellees, the Ohio Department of Administrative Services' designee Bobbi Lind, a Human Resource Analyst 3 and the Ohio Department of Rehabilitation and Correction, Parole and Community Services' designee, Amy Parmi, Human Resource Legal Counsel and their counsel Megan Bioarsky, an Assistant Attorney General.

On or about January 7, 2008, the Appellant, George Lopez, requested a job audit of his Management Analyst Supervisor 1 position, classification specification number 63215. Subsequently, on or about February 28, 2008, the Appellant received the results of his audit request which notified him that his proper classification for his position was that of a Labor Relations Officer 1, classification specification number 63471. After receiving the Ohio Department of Administrative Services' decision, the Appellant timely filed his appeal to this Board on or about March 14, 2008. It should be noted that the aforementioned was stipulated to, as well as the subject matter jurisdiction of this Board was established.

Further, before proceeding onto the record hearing, the Appellant stated that although he is presently classified as a Management Analyst Supervisor 1, as he has not been put into the Labor Relations Officer 1 classification as of yet, he is seeking to be reclassified to either a Management Analyst Supervisor 2's position classification specification number 63216 and/or a Labor Relations Officer 3's position classification specification number 63473.

**Further, it should be noted that the parties agreed prior to the start of the record hearing that issues surrounding the alleged reduction appeal were one and the same as the issues surrounding the reclassification appeal, and thus were consolidated into the reclassification appeal.**

### **STATEMENT OF THE CASE**

The Appellant, George Lopez, testified he is presently employed by the Ohio Department of Rehabilitation and Correction, Parole and Community Services Division as a Management Analyst Supervisor 1 and has been so since May 2004. When questioned, the Appellant testified when he filed for his job audit request in January 2008 his physical location was 1050 Freeway Drive, Columbus, Ohio and he has worked in that building since he became a Management Analyst Supervisor 1, up until just a few weeks ago. The witness testified within the Parole and Community Services Division he specifically was assigned to the Personnel Department under the direct supervision of Rebecca Fair, a Human Resource Manager of the Personnel Office at the Parole and Community Services Division and/or commonly known as the Human Resource Director. When questioned as to who reports directly to Ms. Fair, the witness explained there were two other Management Analyst Supervisor 1s, a Payroll Manager and another staff position which he could not remember. The witness explained the mission and/or function of the department is to provide personnel services to all the employees of the Parole and Community Services Division on a statewide basis. Mr. Lopez noted there are approximately 1000 employees within 72 locations that employ approximately 600 to 700 Parole Officers which they provide services for.

The Appellant testified that he is a full-time employee working forty hours per week, Monday through Friday from 7:00 a.m. to 3:45 p.m. The witness explained he does not have any direct subordinate employees which he supervises in his section, he does not complete performance evaluations, nor does he effectively recommend discipline. However, the witness explained he would from time to time

act on the behalf of the supervisor and train individuals how to do internal misconduct proceedings and/or train hearing officers for the predisciplinary hearings which would come up. The witness also explained in addition to those things, he would help train individuals on video teleconferencing equipment, as well.

The witness then identified Joint Exhibit 1 as the packet of information which the Ohio Department of Administrative Services' designee Ms. Bobbi Lind put together for this hearing. It should be noted that contained within Joint Exhibit 1 was the audit questionnaire filled out by the Appellant herein, the job audit report compiled by Ms. Lind, as well as the classification specifications of both the Management Analyst series and the Labor Relations Officer series.

After identifying Joint Exhibit 1, the Appellant testified that in accordance with his position audit questionnaire the main purpose of his job within the Division of Parole and Community Services as a Management Analyst Supervisor 1 was to provide labor relations representation, services and advice to Division of Parole and Community Services staff, as well as responding to questionnaires from the Attorney Generals Office for Personnel Board of Review cases on exempt discipline cases, Court of Claims cases and disability separation cases, as well as responding to interrogatories from Attorneys. The Appellant testified he also drafted responses for the Deputy Director and/or the appointing authority for EEO complaints and charges against DPCS. Another purpose of his job as explained by the witness, testified he was also responsible for coordinating and scheduling predisciplinary hearings while ensuring predisciplinary packets were accurate, complete while ensuring delivery to the hearing participants in a timely matter. The witness stated that he also provides assistance to predisciplinary hearing officers and identifies need for, prepares and coordinates and conducts training of additional predisciplinary hearing officers when and if needed. The witness testified that he also tracks and follows-up on all pending discipline, prepares orders/notices of discipline and personnel actions. The witness explained he helps calculate and process back pay settlements and/or paperwork if necessary, as well.

The Appellant then testified that forty-five percent of his job duties he spends developing working relationships with DRC Bureau of Labor Relations, Bureau of Personnel, Bureau of Employee Relations & DRC Employment Law Legal Counsel as related to employee grievances, discipline matters & EEO complaints. Further, the witness stated he gathers information in preparation for grievance responses, represents the Division in mediations, non-traditional arbitrations and arbitrations.

As for Personnel Board of Review cases, the witness explained that he responds to questionnaires from Attorney General's Office and collects information and documentation, responds to interrogatories from Attorneys, answers EEO complaints filed against DPCS and Deputy Director and assists DRC legal staff with exempt discipline and grievances.

The witness stated that he spends twenty percent of his time coordinating pre-disciplinary hearings, by selecting the date, time and location of the hearing. The witness stated that he would schedule the hearing officers, participants, facilities, and videoconference equipment (when applicable); in addition to Xeroxing and distributing materials and packets. Mr. Lopez stated that he also provides assistance to predisciplinary hearing officers and staff involved in discipline matters by responding to procedural questions and issues, all while tracking and following up on all pending discipline to ensure timely action. The witness stated he obtains the required paperwork and approvals to initiate personnel actions and back pay settlements when necessary. Mr. Lopez noted that he also identifies need for and prepares, conducts or coordinates training of the pre-disciplinary hearing officers.

Mr. Lopez then testified that he spends approximately fifteen percent of his time assisting the Agency Manager of American Accreditation Association and Internal Management Audits specifically in the areas of Personnel, Training and Information Technology within Division of Parole and Community Services, all while acting as the liaison with DRC Bureau of Internal Audits and Standards Compliance wherein he would formulate and direct the implementation of those policies. The witness also stated that he would create and maintains files for audit standards, and collect documentation and information to demonstrate compliance to Internal and ACA standards. Mr. Lopez explained that annually he participates in audits of Personnel, Training and Information Technology, and writes action plans for bringing operations and documentation into compliance with standards, and to ensure the action plants enforced.

The witness explained that he devotes approximately ten percent of his time assisting the Coordinator of Audits and Investigations Section in administering Physician's Verification Notice (PVN) and AWOL programs, where he gathers the required documentation for these programs. Mr. Lopez stated that he would review records, and would forward the names of employees in AWOL situations to A&I for further investigation and possible discipline, and the he would verify sick leave balances for placement and removal on PVN, while conducting audits of use of sick

leave for PVN compliance.

Lastly, the witness explained that he spends approximately ten percent of his time receiving training on an on-going basis in areas of personnel, labor relations/collective bargaining, EEO and related areas to keep current of changes in polices, procedures and laws and their impact on Division. Afterwards, the witness testified that he would then provide that information to Management Staff in the area of labor relations, and that he would respond to questions and concerns of staff both verbally and in writing. The witness stated that he would also perform other related duties as assigned, while preparing and maintaining records, reports and logs on ACA files and labor relations activities. Mr. Lopez stated that he also attends staff meetings, training and conferences, and participates on teams and committees, as assigned.

As was noted by the undersigned, the job duties listed above, as well as the percentages listed, the witness testified that he performed those duties as listed at the time that he filed for the audit in January 2008 and approximately one to two years prior to today's hearing date.

When reviewing the classification specification of a Management Analyst Supervisor 2 upon questioning by the undersigned, the witness testified he did not supervise any lower level Management Analyst Supervisors, nor did he direct and coordinate the activities of multiple teams or units of Management Analysts and/or serves as an Agency Manager. When questioned as to the classification specification of a Management Analyst Supervisor 1, again, the witness testified that he did not supervise any unit or team of Managing Analysts in evaluation of any financial and programmatic impact of specified operations or a procedure of an assigned agency. The witness testified he did however give direction to the other Management Analyst Supervisor 1s when asked. Upon further questioning, the Appellant testified that when he has worked as a Management Analyst Supervisor 1 he has never had any duty relating any budgetary concerns or any duty having a fiscal impact upon the agency. The witness testified while he did not do the above he was the sole person in charge of the EEO, the Physicians Verification Number, and the AWOL and was the main person for arbitration while working at the agency.

When questioned about the Labor Relations Officer 1 classification specification, the Appellant explained he did not gather and analyze facts and document concerns concerning grievances filed to recommend resolutions and or

hear step two or step 3 grievances. However, the witness did assist higher-level Labor Relations personnel and/or Personnel Officers with preparation of case documentation, corrective actions, appeals and labor management meetings. Further, the Appellant testified he did provide information to management concerning bargaining agreements and labor relations communications received and that he did provide training from time to time regarding the same. The witness also testified he did prepare and maintain records and reports on labor relations activities; attended labor relations meetings; received training on initial and ongoing basis in the area of personnel, labor relations/collective bargaining, human resource development, EEO and related areas to keep current and changes in policies, procedures and logs and their impact on the assigned areas.

When questioned as to the Labor Relations Officer 2 classification specification, the witness testified he did not function as the head of labor relations in an institution only and plan, direct and coordinate all labor relations activities within that institution. The witness did testify that he did do that for his division albeit not the entire institution or agency itself. The Appellant testified he did not investigate proposed discipline complaints and grievances and recommend resolutions and/or represent the institution or agency in any disciplinary matter, nor did he perform performance evaluations, grievance hearings, as well.

When reviewing the Labor Relations Officer 3 classification specification, the Appellant testified he did not coordinate and monitor all the labor relations activities for an assigned geographical district for a region, which may include all or several institutions, or for all central office personnel, or for all activities pertaining to one aspect of overall labor relations program effecting all employees of agency statewide and in each case, assist supervisor in planning the agency's overall labor relations program. The witness explained although he did confer and/or advise management, he did not confer and advise Labor Relation Officers in his position.

There were no follow-up questions asked by either the Appellee's designee, Megan Boiarsky and/or Bobbi Lind.

The next person to testify was Ms. Rebecca Fair, the Human Resource Manager for the Division of Parole and Community Services, a position which she held until April 2008. Ms. Fair explained after April 2008 she then was given the title of Human Capital Management Manager, a position which she has held for approximately fifteen years but, now is under a different name. The witness

explained up until April 2008 the Human Resource Manager was in charge of the personnel services within the Parole and Community Services Division under the Ohio Department of Rehabilitation and Correction. However, as of that date, in April 2008, the Ohio Department of Rehabilitation and Correction dissolved the Personnel Services Division of the Division of Parole and Community Services and merged with the Bureau of Personnel with the Department of Rehabilitation and Correction. The witness explained that three units were then created under the Division of Personnel, those being Payroll Benefits, Institutions and/or Personnel Work, and the Central Office Division of Parole Community Services Personnel Services.

The witness then explained prior to the April 2008 date she was the direct supervisor of the Appellant herein and she has been so since 2004. After April 2008, the witness explained that as a result of the merger the Appellant was then put under the Central Office Division of Parole and Community Services Personnel Services in the Audits and Investigations section and he was performing labor relations and EEO work. When questioned as to the veracity of his testimony at today's hearing, the witness testified it was accurate as she was in the hearing room and heard the same. However, the witness did note that Mr. Lopez understated the fact how much work and how hard it was when he came on board in his work he put into the ACA for personnel and training and working with the auditors when trying to seek accreditation. The witness also explained that Mr. Lopez from time to time would work on internal investigations when and if needed which approximated maybe once or twice a year. Lastly, the witness testified Mr. Lopez also helped in negotiations with the union contract and/or collective bargaining contract wherein he would gather data and statistics for management to aide in their understanding of the situation and that he was always present, but that he did not testify in those hearings.

There were no questions asked by Ms. Bioarsky or Ms. Lind of Mr. Lopez.

The last witness to testify was Ms. Bobbi Lind, a Human Resource Analyst 3 for the Ohio Department of Administrative Services for approximately the last twenty years. Ms. Lind testified she performed the audit and that she received initial communications from the Appellant on or about January 7, 2008, and she issued a decision on or about February 28, 2008. When questioned, Ms. Lind testified she found that Mr. Lopez was not properly classified as a Management Analyst Supervisor 1, but that of a Labor Relations Officer 1. The witness simply stated that

Mr. Lopez performed more labor relation activities as a reason and underlying basis for her justifying his reclassification to the Labor Relations Officer 1 classification specification.

Ms. Lind then explained that the Appellant was classified as a Management Analyst 1 and that the Appellant was seeking to re-classify to either a Management Analyst 2 and/or Labor Relations Officer 3, as she understood this when making her determination. However, as was seen by the Joint Exhibit 1 and Ms. Lind's finding, Ms. Lind explained that the Labor Relations Officer 3 class concept sets forth the following that the person holding that position should have advanced level class working under direction that requires through knowledge of labor relations/collective bargaining in order to coordinate and monitor all labor relations activities for assigned transportation district or in central office of large decentralized agency, coordinate and monitor all labor relation activities for assigned geographical district or region or for all activities pertaining to one aspect of overall labor relations program effecting all employees of agencies statewide and in these cases supervise in planning agencies over all labor relations programs. In this case, the employee, Mr. Lopez, was responsible for some labor relation activities relative to the Division of Parole and Community Services within the Ohio Department of Rehabilitation and Correction and that clearly the first option is not applicable as it is agency specific to the Ohio Department of Transportation. Additionally, agency wide responsibility is required in both the second and third options and due to the decentralized model of the Ohio Department of Rehabilitation and Correction all labor activity and decisions carried out by the institutions and various divisions are subject to review by Central Office Human Resources. The incumbent's position resides in a divisional human resources office and does not function autonomously of the Central Office Human Resource Division and therefore those options were not satisfied, as well.

When referring to the Labor Relations Officer 2 classification specification, Ms. Lind testified she dismissed this as not being an appropriate classification as it was inappropriate as it is designed for the head of labor relations of an institution, which the Appellant herein is not. The witness went on to state that a Labor Relations Officer 1 best describes the labor relation's duties of the position, but is clearly not an exact fit. As the class concept states that the entry in developmental level class works under general supervision, and requires working knowledge of labor relations/collective bargaining and/or human resources in order to gather and analyze facts and documentation to resolve grievances, participate in local

labor/management meetings and review disciplinary actions to make recommendations for dispositions. However, Ms. Lind testified the position in which the Appellant held was also assigned to manage the American Accreditation Association Internal Management Audit Function for the Division of Parole and Community Services. In this capacity the employee assisted the agency manager by documenting the divisions' compliance with established standards of operation, participating in annual audits and writing action plans for improvement where compliance is lacking. These duties were compatible with the Management Analyst Supervisor 1 classification however, they were reported by the Appellant as compromising only fifteen percent of the time by both the employee and his supervisor and that based upon Administrative Rule 123:1-7-15 the class concept must be performed at least twenty percent of the time for a classification to be assigned to that classification. Thus, according to the information submitted, the witness testified that the threshold had not been met for the position to be classified as a Management Analyst Supervisor 1. Thus, the witness concluded that the Appellant should be classified as a Labor Relations Officer 1.

Upon questioning by Ms. Boiarsky, the witness testified when referring to page 4 of her audit report that if Mr. Lopez would have been performing the duties of managing the American Accreditation Association Internal Management Audit Function at least twenty percent of the time she probably would have classified Mr. Lopez as a Management Analyst Supervisor 1.

Upon questioning by Mr. Lopez, the witness testified there was nothing in the Labor Relations Officer 1 classification specification relating that one has to be responsible for mediators or participating in step 4 grievance procedures or arbitrations.

### **FINDINGS OF FACT**

There was no real discrepancy between the Appellant's characterization in the duties that he performed and those of the testimony of his supervisor, Ms. Rebecca Fair, the once Human Resource Manager for the Division of Parole and Community Services and presently the Human Capital Management Manager. Thus, I find as a matter of fact, the Appellant performed the duties about which he testified.

## CONCLUSIONS OF LAW

This Board is required to perform several functions when determining the most appropriate classification for an Appellant coming before it. The Board must always review relevant classifications specifications to determine which classification best describes the Appellant's actual job duties for the pertinent period of time. *Ford v. Ohio Department of Natural Resources* (1990), 67 Ohio App. 3d 755. In making this determination, the Board considers the classification specification and the job duties outlined therein, as well as the percentages of time the Appellant devotes to each group of job duties. *Klug v. Ohio Department of Administrative Services* (May 19, 1988), Franklin Co. 87AP-306, unreported, 1988 WL54277. This Board's consideration is not solely limited to the duties contained within the classification specification, but may also embrace other relevant facts submitted by the affected parties. *Gordon v. Ohio Department of Administrative Services* (March 31, 1988), Franklin Co. 88AP-0122, unreported, 1988 WL37094.

As a general rule, the Appellant seeking a reclassification to a higher position must demonstrate that his or her respective job duties substantially satisfy those of the higher classification. *Mounts v. Ohio Department of Administrative Services* (1984), 17 Ohio App. 3d 125; *Deist v. Kent State University* (May 23, 1987), Franklin Co. 87AP-28, unreported.

As was previously stated, the Appellant is currently classified as a Management Analyst Supervisor 1, classification specification number 63215, and as the result of DAS' decision he was reclassified to a Labor Relations Officer 1, classification specification number 63471, but is seeking to be reclassified to either an Labor Relations Officer 3, classification specification number 63473 or a Management Analyst Supervisor 2, classification specification number 63216. However, as was previously noted by the undersigned, the Ohio Department of Administrative Services found that Mr. Lopez was properly classified as a Labor Relations Officer 1, as a result of their audit. After a thorough review of the above mentioned classifications, along with the classification specification mentioned above, it is my recommendation that the Appellant should be classified as a Labor Relations Officer 1, classification specification number 63471, in concurrence with the Ohio Department of Administrative Services' decision.

When reviewing the Management Analyst Supervisor 1 classification specification the evidence revealed that this was an inappropriate classification

since the employee in this case did not supervise a team or unit of Management Analysts responsible for monitoring a specifying operation, a system, service or procedure of an assigned agency or serve as an agency manager. Thus, the classification specification of a Management Analyst Supervisor 1 was rejected by the undersigned.

With respect to the Management Analyst Supervisor 2 classification specification the evidence revealed that Mr. Lopez did not supervise any lower level Management Analyst Supervisors, nor did he direct and coordinate the activities of multiple teams or units of Management Analysts and/or serves as an Agency Manager. Thus, the classification specification of a Management Analyst Supervisor 2 was rejected by the undersigned.

In reviewing the Labor Relations Officer 2 classification specification the evidence revealed that the Appellant did not function as the head of labor relations in an institution as called for in the classification specification. As a result, the undersigned rejected the Labor Relations Officer 2 classification specification as an appropriate fit for the Appellant herein.

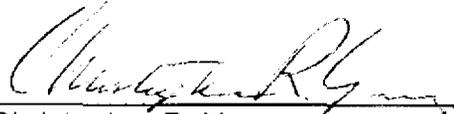
Further, in reviewing the Labor Relations Officer 3 classification specification the Labor Relations Officer 3 class concept sets forth the following that the person holding that position should have advanced level class working under direction that requires through knowledge of labor relations/collective bargaining in order to coordinate and monitor all labor relations activities for assigned transportation district or in central office of large decentralized agency, coordinate and monitor all labor relation activities for assigned geographical district or region or for all activities pertaining to one aspect of overall labor relations program effecting all employees of agencies statewide and in these cases supervise in planning agencies over all labor relations programs. In this case, the employee, Mr. Lopez, was responsible for some labor relation activities relative to the Division of Parole and Community Services within the Ohio Department of Rehabilitation and Correction. Clearly, the second option, in the classification specification itself, is not applicable as it is agency specific to the Ohio Department of Transportation. Additionally, agency wide responsibility is required in both the first and third options in the classification specification itself and due to the decentralized model of the Ohio Department of Rehabilitation and Correction all labor activity and decisions carried out by the institutions and various divisions are subject to review by Central Office Human Resources. The incumbent's position resides in a divisional human resources office

and does not function autonomously of the Central Office Human Resource Division and therefore those options were not satisfied, as well. As a result, the undersigned rejected the Labor Relations Officer 3 classification specification as an appropriate fit for the Appellant herein.

However, when reviewing the Labor Relations Officer 1 classification specification, the documentary and testimonial evidence revealed that this classification same to be the most appropriate since the employee generally met the requirements called for under the class concept. The class concept of a Labor Relations Officer 1 classification specification states, "The entry and developmental level class works under general supervision and requires working knowledge of labor relations/collective bargaining and/or human resources in order to gather and analyze facts and documentation to resolve grievances, participate in local labor/management meetings and review disciplinary action to make recommendations for disposition." As can be seen by the class concept this was essentially what the Appellant performed in his daily jobs and tasks. Thus, this classification appeared to be the best fit for the Appellant herein.

### RECOMMENDATION

Therefore, after careful consideration of the evidence presented at the record hearing, and by preponderance thereof, the Labor Relations Officer 1 classification specification best describes the duties which the Appellant performs in his job. Therefore it is my **RECOMMENDATION** that the Appellant be reclassified to that position in accordance with the Ohio Department of Administrative Services' decision effective back to date the Appellant requested his job audit on or about January 7, 2007, and that the Appellant's appeal be **DISMISSED**.

  
\_\_\_\_\_  
Christopher R. Young  
Administrative Law Judge

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

George L. Lopez,

Case No. 08-REC-03-0054

*Appellant*

v.

November 12, 2008

Ohio Department of Rehabilitation and Correction,  
Parole and Community Services

and

Ohio Department of Administrative Services,

*Appellees*

Christopher R. Young  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on September 15, 2008, at 10:00 a.m. Present at the hearing were the Appellant, George Lopez, appearing *pro se*, and the Appellees, the Ohio Department of Administrative Services' designee Bobbi Lind, a Human Resource Analyst 3 and the Ohio Department of Rehabilitation and Correction, Parole and Community Services' designee, Amy Parmi, Human Resource Legal Counsel and their counsel Megan Bioarsky, an Assistant Attorney General.

On or about January 7, 2008, the Appellant, George Lopez, requested a job audit of his Management Analyst Supervisor 1 position, classification specification number 63215. Subsequently, on or about February 28, 2008, the Appellant received the results of his audit request which notified him that his proper classification for his position was that of a Labor Relations Officer 1, classification specification number 63471. After receiving the Ohio Department of Administrative Services' decision, the Appellant timely filed his appeal to this Board on or about March 14, 2008. It should be noted that the aforementioned was stipulated to, as well as the subject matter jurisdiction of this Board was established.

Further, before proceeding onto the record hearing, the Appellant stated that although he is presently classified as a Management Analyst Supervisor 1, as he has not been put into the Labor Relations Officer 1 classification as of yet, he is seeking to be reclassified to either a Management Analyst Supervisor 2's position classification specification number 63216 and/or a Labor Relations Officer 3's position classification specification number 63473.

### **STATEMENT OF THE CASE**

The Appellant, George Lopez, testified he is presently employed by the Ohio Department of Rehabilitation and Correction, Parole and Community Services Division as a Management Analyst Supervisor 1 and has been so since May 2004. When questioned, the Appellant testified when he filed for his job audit request in January 2008 his physical location was 1050 Freeway Drive, Columbus, Ohio and he has worked in that building since he became a Management Analyst Supervisor 1, up until just a few weeks ago. The witness testified within the Parole and Community Services Division he specifically was assigned to the Personnel Department under the direct supervision of Rebecca Fair, a Human Resource Manager of the Personnel Office at the Parole and Community Services Division and/or commonly known as the Human Resource Director. When questioned as to who reports directly to Ms. Fair, the witness explained there were two other Management Analyst Supervisor 1s, a Payroll Manager and another staff position which he could not remember. The witness explained the mission and/or function of the department is to provide personnel services to all the employees of the Parole and Community Services Division on a statewide basis. Mr. Lopez noted there are approximately 1000 employees within 72 locations that employ approximately 600 to 700 Parole Officers which they provide services for.

The Appellant testified that he is a full-time employee working forty hours per week, Monday through Friday from 7:00 a.m. to 3:45 p.m. The witness explained he does not have any direct subordinate employees which he supervises in his section, he does not complete performance evaluations, nor does he effectively recommend discipline. However, the witness explained he would from time to time act on the behalf of the supervisor and train individuals how to do internal misconduct proceedings and/or train hearing officers for the predisciplinary hearings which would come up. The witness also explained in addition to those things, he would help train individuals on video teleconferencing equipment, as well.

The witness then identified Joint Exhibit 1 as the packet of information which the Ohio Department of Administrative Services' designee Ms. Bobbi Lind put together for this hearing. It should be noted that contained within Joint Exhibit 1 was the audit questionnaire filled out by the Appellant herein, the job audit report compiled by Ms. Lind, as well as the classification specifications of both the Management Analyst series and the Labor Relations Officer series.

After identifying Joint Exhibit 1, the Appellant testified that in accordance with his position audit questionnaire the main purpose of his job within the Division of Parole and Community Services as a Management Analyst Supervisor 1 was to provide labor relations representation, services and advice to Division of Parole and Community Services staff, as well as responding to questionnaires from the Attorney General's Office for Personnel Board of Review cases on exempt discipline cases, Court of Claims cases and disability separation cases, as well as responding to interrogatories from Attorneys. The Appellant testified he also drafted responses for the Deputy Director and/or the appointing authority for EEO complaints and charges against DPCS. Another purpose of his job as explained by the witness, testified he was also responsible for coordinating and scheduling predisciplinary hearings while ensuring predisciplinary packets were accurate, complete while ensuring delivery to the hearing participants in a timely matter. The witness stated that he also provides assistance to predisciplinary hearing officers and identifies need for, prepares and coordinates and conducts training of additional predisciplinary hearing officers when and if needed. The witness testified that he also tracks and follows-up on all pending discipline, prepares orders/notices of discipline and personnel actions. The witness explained he helps calculate and process back pay settlements and/or paperwork if necessary, as well.

The Appellant then testified that forty-five percent of his job duties he spends developing working relationships with DRC Bureau of Labor Relations, Bureau of Personnel, Bureau of Employee Relations & DRC Employment Law Legal Counsel as related to employee grievances, discipline matters & EEO complaints. Further, the witness stated he gathers information in preparation for grievance responses, represents the Division in mediations, non-traditional arbitrations and arbitrations. As for Personnel Board of Review cases, the witness explained that he responds to questionnaires from Attorney General's Office and collects information and documentation, responds to interrogatories from Attorneys, answers EEO complaints filed against DPCS and Deputy Director and assists DRC legal staff with exempt discipline and grievances.

The witness stated that he spends twenty percent of his time coordinating pre-disciplinary hearings, by selecting the date, time and location of the hearing. The witness stated that he would schedule the hearing officers, participants, facilities, and videoconference equipment (when applicable); in addition to Xeroxing and distributing materials and packets. Mr. Lopez stated that he also provides assistance to predisciplinary hearing officers and staff involved in discipline matters by responding to procedural questions and issues, all while tracking and following up on all pending discipline to ensure timely action. The witness stated he obtains the required paperwork and approvals to initiate personnel actions and back pay settlements when necessary. Mr. Lopez noted that he also identifies need for and prepares, conducts or coordinates training of the pre-disciplinary hearing officers.

Mr. Lopez then testified that he spends approximately fifteen percent of his time assisting the Agency Manager of American Accreditation Association and Internal Management Audits specifically in the areas of Personnel, Training and Information Technology within Division of Parole and Community Services, all while acting as the liaison with DRC Bureau of Internal Audits and Standards Compliance wherein he would formulate and direct the implementation of those policies. The witness also stated that he would create and maintains files for audit standards, and collect documentation and information to demonstrate compliance to Internal and ACA standards. Mr. Lopez explained that annually he participates in audits of Personnel, Training and Information Technology, and writes action plans for bringing operations and documentation into compliance with standards, and to ensure the action plants enforced.

The witness explained that he devotes approximately ten percent of his time assisting the Coordinator of Audits and Investigations Section in administering Physician's Verification Notice (PVN) and AWOL programs, where he gathers the required documentation for these programs. Mr. Lopez stated that he would review records, and would forward the names of employees in AWOL situations to A&I for further investigation and possible discipline, and the he would verify sick leave balances for placement and removal on PVN, while conducting audits of use of sick leave for PVN compliance.

Lastly, the witness explained that he spends approximately ten percent of his time receiving training on an on-going basis in areas of personnel, labor relations/collective bargaining, EEO and related areas to keep current of changes in

policies, procedures and laws and their impact on Division. Afterwards, the witness testified that he would then provide that information to Management Staff in the area of labor relations, and that he would respond to questions and concerns of staff both verbally and in writing. The witness stated that he would also perform other related duties as assigned, while preparing and maintaining records, reports and logs on ACA files and labor relations activities. Mr. Lopez stated that he also attends staff meetings, training and conferences, and participates on teams and committees, as assigned.

As was noted by the undersigned, the job duties listed above, as well as the percentages listed, the witness testified that he performed those duties as listed at the time that he filed for the audit in January 2008 and approximately one to two years prior to today's hearing date.

When reviewing the classification specification of a Management Analyst Supervisor 2 upon questioning by the undersigned, the witness testified he did not supervise any lower level Management Analyst Supervisors, nor did he direct and coordinate the activities of multiple teams or units of Management Analysts and/or serves as an Agency Manager. When questioned as to the classification specification of a Management Analyst Supervisor 1, again, the witness testified that he did not supervise any unit or team of Managing Analysts in evaluation of any financial and programmatic impact of specified operations or a procedure of an assigned agency. The witness testified he did however give direction to the other Management Analyst Supervisor 1s when asked. Upon further questioning, the Appellant testified that when he has worked as a Management Analyst Supervisor 1 he has never had any duty relating any budgetary concerns or any duty having a fiscal impact upon the agency. The witness testified while he did not do the above he was the sole person in charge of the EEO, the Physicians Verification Number, and the AWOL and was the main person for arbitration while working at the agency.

When questioned about the Labor Relations Officer 1 classification specification, the Appellant explained he did not gather and analyze facts and document concerns concerning grievances filed to recommend resolutions and or hear step two or step 3 grievances. However, the witness did assist higher-level Labor Relations personnel and/or Personnel Officers with preparation of case documentation, corrective actions, appeals and labor management meetings. Further, the Appellant testified he did provide information to management concerning bargaining agreements and labor relations communications received

and that he did provide training from time to time regarding the same. The witness also testified he did prepare and maintain records and reports on labor relations activities; attended labor relations meetings; received training on initial and ongoing basis in the area of personnel, labor relations/collective bargaining, human resource development, EEO and related areas to keep current and changes in policies, procedures and logs and their impact on the assigned areas.

When questioned as to the Labor Relations Officer 2 classification specification, the witness testified he did not function as the head of labor relations in an institution only and plan, direct and coordinate all labor relations activities within that institution. The witness did testify that he did do that for his division albeit not the entire institution or agency itself. The Appellant testified he did not investigate proposed discipline complaints and grievances and recommend resolutions and/or represent the institution or agency in any disciplinary matter, nor did he perform performance evaluations, grievance hearings, as well.

When reviewing the Labor Relations Officer 3 classification specification, the Appellant testified he did not coordinate and monitor all the labor relations activities for an assigned geographical district for a region, which may include all or several institutions, or for all central office personnel, or for all activities pertaining to one aspect of overall labor relations program effecting all employees of agency statewide and in each case, assist supervisor in planning the agency's overall labor relations program. The witness explained although he did confer and/or advise management, he did not confer and advise Labor Relation Officers in his position.

There were no follow-up questions asked by either the Appellee's designee, Megan Boiarsky and/or Bobbi Lind.

The next person to testify was Ms. Rebecca Fair, the Human Resource Manager for the Division of Parole and Community Services, a position which she held until April 2008. Ms. Fair explained after April 2008 she then was given the title of Human Capital Management Manager, a position which she has held for approximately fifteen years but, now is under a different name. The witness explained up until April 2008 the Human Resource Manager was in charge of the personnel services within the Parole and Community Services Division under the Ohio Department of Rehabilitation and Correction. However, as of that date, in April 2008, the Ohio Department of Rehabilitation and Correction dissolved the Personnel Services Division of the Division of Parole and Community Services and

merged with the Bureau of Personnel with the Department of Rehabilitation and Correction. The witness explained that three units were then created under the Division of Personnel, those being Payroll Benefits, Institutions and/or Personnel Work, and the Central Office Division of Parole Community Services Personnel Services.

The witness then explained prior to the April 2008 date she was the direct supervisor of the Appellant herein and she has been so since 2004. After April 2008, the witness explained that as a result of the merger the Appellant was then put under the Central Office Division of Parole and Community Services Personnel Services in the Audits and Investigations section and he was performing labor relations and EEO work. When questioned as to the veracity of his testimony at today's hearing, the witness testified it was accurate as she was in the hearing room and heard the same. However, the witness did note that Mr. Lopez understated the fact how much work and how hard it was when he came on board in his work he put into the ACA for personnel and training and working with the auditors when trying to seek accreditation. The witness also explained that Mr. Lopez from time to time would work on internal investigations when and if needed which approximated maybe once or twice a year. Lastly, the witness testified Mr. Lopez also helped in negotiations with the union contract and/or collective bargaining contract wherein he would gather data and statistics for management to aide in their understanding of the situation and that he was always present, but that he did not testify in those hearings.

There were no questions asked by Ms. Bioarsky or Ms. Lind of Mr. Lopez.

The last witness to testify was Ms. Bobbi Lind, a Human Resource Analyst 3 for the Ohio Department of Administrative Services for approximately the last twenty years. Ms. Lind testified she performed the audit and that she received initial communications from the Appellant on or about January 7, 2008, and she issued a decision on or about February 28, 2008. When questioned, Ms. Lind testified she found that Mr. Lopez was not properly classified as a Management Analyst Supervisor 1, but that of a Labor Relations Officer 1. The witness simply stated that Mr. Lopez performed more labor relation activities as a reason and underlying basis for her justifying his reclassification to the Labor Relations Officer 1 classification specification.

Ms. Lind then explained that the Appellant was classified as a Management Analyst 1 and that the Appellant was seeking to re-classify to either a Management Analyst 2 and/or Labor Relations Officer 3, as she understood this when making her determination. However, as was seen by the Joint Exhibit 1 and Ms. Lind's finding, Ms. Lind explained that the Labor Relations Officer 3 class concept sets forth the following that the person holding that position should have advanced level class working under direction that requires through knowledge of labor relations/collective bargaining in order to coordinate and monitor all labor relations activities for assigned transportation district or in central office of large decentralized agency, coordinate and monitor all labor relation activities for assigned geographical district or region or for all activities pertaining to one aspect of overall labor relations program effecting all employees of agencies statewide and in these cases supervise in planning agencies over all labor relations programs. In this case, the employee, Mr. Lopez, was responsible for some labor relation activities relative to the Division of Parole and Community Services within the Ohio Department of Rehabilitation and Correction and that clearly the first option is not applicable as it is agency specific to the Ohio Department of Transportation. Additionally, agency wide responsibility is required in both the second and third options and due to the decentralized model of the Ohio Department of Rehabilitation and Correction all labor activity and decisions carried out by the institutions and various divisions are subject to review by Central Office Human Resources. The incumbent's position resides in a divisional human resources office and does not function autonomously of the Central Office Human Resource Division and therefore those options were not satisfied, as well.

When referring to the Labor Relations Officer 2 classification specification, Ms. Lind testified she dismissed this as not being an appropriate classification as it was inappropriate as it is designed for the head of labor relations of an institution, which the Appellant herein is not. The witness went on to state that a Labor Relations Officer 1 best describes the labor relation's duties of the position, but is clearly not an exact fit. As the class concept states that the entry in developmental level class works under general supervision, and requires working knowledge of labor relations/collective bargaining and/or human resources in order to gather and analyze facts and documentation to resolve grievances, participate in local labor/management meetings and review disciplinary actions to make recommendations for dispositions. However, Ms. Lind testified the position in which the Appellant held was also assigned to manage the American Accreditation Association Internal Management Audit Function for the Division of Parole and Community Services. In this capacity the employee assisted the agency manager

by documenting the divisions' compliance with established standards of operation, participating in annual audits and writing action plans for improvement where compliance is lacking. These duties were compatible with the Management Analyst Supervisor 1 classification however, they were reported by the Appellant as compromising only fifteen percent of the time by both the employee and his supervisor and that based upon Administrative Rule 123:1-7-15 the class concept must be performed at least twenty percent of the time for a classification to be assigned to that classification. Thus, according to the information submitted, the witness testified that the threshold had not been met for the position to be classified as a Management Analyst Supervisor 1. Thus, the witness concluded that the Appellant should be classified as a Labor Relations Officer 1.

Upon questioning by Ms. Boiarsky, the witness testified when referring to page 4 of her audit report that if Mr. Lopez would have been performing the duties of managing the American Accreditation Association Internal Management Audit Function at least twenty percent of the time she probably would have classified Mr. Lopez as a Management Analyst Supervisor 1.

Upon questioning by Mr. Lopez, the witness testified there was nothing in the Labor Relations Officer 1 classification specification relating that one has to be responsible for mediators or participating in step 4 grievance procedures or arbitrations.

### **FINDINGS OF FACT**

There was no real discrepancy between the Appellant's characterization in the duties that he performed and those of the testimony of his supervisor, Ms. Rebecca Fair, the once Human Resource Manager for the Division of Parole and Community Services and presently the Human Capital Management Manager. Thus, I find as a matter of fact, the Appellant performed the duties about which he testified.

### **CONCLUSIONS OF LAW**

This Board is required to perform several functions when determining the most appropriate classification for an Appellant coming before it. The Board must always review relevant classifications specifications to determine which classification best describes the Appellant's actual job duties for the pertinent period

of time. *Ford v. Ohio Department of Natural Resources* (1990), 67 Ohio App. 3d 755. In making this determination, the Board considers the classification specification and the job duties outlined therein, as well as the percentages of time the Appellant devotes to each group of job duties. *Klug v. Ohio Department of Administrative Services* (May 19, 1988), Franklin Co. 87AP-306, unreported, 1988 WL54277. This Board's consideration is not solely limited to the duties contained within the classification specification, but may also embrace other relevant facts submitted by the affected parties. *Gordon v. Ohio Department of Administrative Services* (March 31, 1988), Franklin Co. 88AP-0122, unreported, 1988 WL37094.

As a general rule, the Appellant seeking a reclassification to a higher position must demonstrate that his or her respective job duties substantially satisfy those of the higher classification. *Mounts v. Ohio Department of Administrative Services* (1984), 17 Ohio App. 3d 125; *Deist v. Kent State University* (May 23, 1987), Franklin Co. 87AP-28, unreported.

As was previously stated, the Appellant is currently classified as a Management Analyst Supervisor 1, classification specification number 63215, and as the result of DAS' decision he was reclassified to a Labor Relations Officer 1, classification specification number 63471, but is seeking to be reclassified to either an Labor Relations Officer 3, classification specification number 63473 or a Management Analyst Supervisor 2, classification specification number 63216. However, as was previously noted by the undersigned, the Ohio Department of Administrative Services found that Mr. Lopez was properly classified as a Labor Relations Officer 1, as a result of their audit. After a thorough review of the above mentioned classifications, along with the classification specification mentioned above, it is my recommendation that the Appellant should be classified as a Labor Relations Officer 1, classification specification number 63471, in concurrence with the Ohio Department of Administrative Services' decision.

When reviewing the Management Analyst Supervisor 1 classification specification the evidence revealed that this was an inappropriate classification since the employee in this case did not supervise a team or unit of Management Analysts responsible for monitoring a specifying operation, a system, service or procedure of an assigned agency or serve as an agency manager. Thus, the classification specification of a Management Analyst Supervisor 1 was rejected by the undersigned.

With respect to the Management Analyst Supervisor 2 classification specification the evidence revealed that Mr. Lopez did not supervise any lower level Management Analyst Supervisors, nor did he direct and coordinate the activities of multiple teams or units of Management Analysts and/or serves as an Agency Manager. Thus, the classification specification of a Management Analyst Supervisor 2 was rejected by the undersigned.

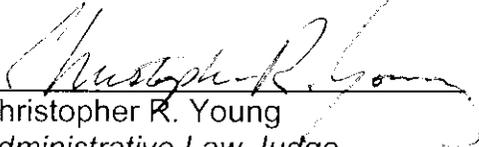
In reviewing the Labor Relations Officer 2 classification specification the evidence revealed that the Appellant did not function as the head of labor relations in an institution as called for in the classification specification. As a result, the undersigned rejected the Labor Relations Officer 2 classification specification as an appropriate fit for the Appellant herein.

Further, in reviewing the Labor Relations Officer 3 classification specification the Labor Relations Officer 3 class concept sets forth the following that the person holding that position should have advanced level class working under direction that requires through knowledge of labor relations/collective bargaining in order to coordinate and monitor all labor relations activities for assigned transportation district or in central office of large decentralized agency, coordinate and monitor all labor relation activities for assigned geographical district or region or for all activities pertaining to one aspect of overall labor relations program effecting all employees of agencies statewide and in these cases supervise in planning agencies over all labor relations programs. In this case, the employee, Mr. Lopez, was responsible for some labor relation activities relative to the Division of Parole and Community Services within the Ohio Department of Rehabilitation and Correction. Clearly, the second option, in the classification specification itself, is not applicable as it is agency specific to the Ohio Department of Transportation. Additionally, agency wide responsibility is required in both the first and third options in the classification specification itself and due to the decentralized model of the Ohio Department of Rehabilitation and Correction all labor activity and decisions carried out by the institutions and various divisions are subject to review by Central Office Human Resources. The incumbent's position resides in a divisional human resources office and does not function autonomously of the Central Office Human Resource Division and therefore those options were not satisfied, as well. As a result, the undersigned rejected the Labor Relations Officer 3 classification specification as an appropriate fit for the Appellant herein.

However, when reviewing the Labor Relations Officer 1 classification specification, the documentary and testimonial evidence revealed that this classification same to be the most appropriate since the employee generally met the requirements called for under the class concept. The class concept of a Labor Relations Officer 1 classification specification states, "The entry and developmental level class works under general supervision and requires working knowledge of labor relations/collective bargaining and/or human resources in order to gather and analyze facts and documentation to resolve grievances, participate in local labor/management meetings and review disciplinary action to make recommendations for disposition." As can be seen by the class concept this was essentially what the Appellant performed in his daily jobs and tasks. Thus, this classification appeared to be the best fit for the Appellant herein.

### **RECOMMENDATION**

Therefore, after careful consideration of the evidence presented at the record hearing, and by preponderance thereof, the Labor Relations Officer 1 classification specification best describes the duties which the Appellant performs in his job. Therefore it is my **RECOMMENDATION** that the Appellant be reclassified to that position in accordance with the Ohio Department of Administrative Services' decision effective back to date the Appellant requested his job audit on or about January 7, 2007, and that the Appellant's appeal be **DISMISSED**.

  
Christopher R. Young  
Administrative Law Judge