

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

PATRICIA D. COLLINS,

*Appellant,*

v.

Case Nos. 10-REC-12-0342  
10-RED-12-0343

BOWLING GREEN STATE UNIVERSITY,

*Appellee*

**ORDER**

These matters 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 entirety of the records, including 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's determination that Appellant is properly classified as a Library Associate 2 be **DISAFFIRMED**, since that classification no longer exists, and that Appellant be properly classified as a Librarian 1 (Non-Degreed), classification number 64311C, effective with the pay period immediately following the date of Appellant's audit request, pursuant to R.C. 124.03 and R.C. 124.14.



Casey - Aye

Lumpe - Aye

Tillery - Aye

A handwritten signature in black ink, appearing to read "Terry L. Casey". The signature is written over a horizontal line.

Terry L. Casey, *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, October 03, 2011.

*E. E. Conn*

Clerk

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

930-11cc

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

Patricia D. Collins

Case Nos. 10-REC-12-0342  
10-RED-12-0343

*Appellant*

v.

August 31, 2011

Bowling Green State University

Marcie M. Scholl  
*Administrative Law Judge*

*Appellee*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on May 10, 2011; however, the record was kept open until May 16, 2011, for the submission of additional documentation. Present at the hearing were the Appellant, Patricia Collins, represented by Thomas A. Sobecki, Attorney at Law and Appellee Bowling Green State University designee Leslie Fern, Employee Relations Employment Specialist, represented by Rema A. Ina, Assistant Attorney General. In addition, Maricelda Losoya-Rush, who is the Appellant in a consolidated case, was also present.

The subject matter jurisdiction of the Board was established pursuant to sections 124.03 and 124.14 of the Ohio Revised Code.

**STATEMENT OF THE CASE**

Appellant Patricia D. Collins "Diane" has been employed by Bowling Green State University (BGSU) for over forty-one years. She testified she is currently classified as a Library Associate 2 and has held this position since 1988. She stated she is currently in Acquisitions and Cataloging and that her immediate supervisor is Julie Rabine. Currently, she supervises one student but does not perform any lead work.

Appellant Collins testified her duties changed on April 15, 2010. She explained that there was a meeting to discuss how the cataloging work would be distributed after the retirement of Chris Plotts. She testified it was agreed that the work would be split between herself and Maricelda Losoya-Rush, a Library Associate 1 in Acquisitions and Cataloging.

Prior to April 15, 2010, Appellant Collins testified she was a Library Associate 2 and that her duties differed from Library Associate 1 duties. Specifically, she testified that her primary duties included ensuring that books were labeled correctly by student workers, ensuring that the headings were correct in the catalog and making corrections in the catalog entries that were created by other people.

Appellant Collins testified she did not perform original cataloging before April 2010. (Original cataloging is the process of creating an original bibliographical record in the Online Computer Library Center (OCLC)). She stated she was able to enter information into the OCLC if it had been accidentally deleted for some unknown reason. Appellant Collins testified she spent approximately half an hour a day supervising students but more time was required if training was involved.

Appellant Collin stated that "authority" work took between fifteen to twenty percent of her time. She explained that "authority" work involved checking the formats of headings that are problematic or have not been used before. Appellant Collins testified she also was responsible for the transferring of materials. She explained that this process involved moving outdated books to the stacks by changing the labels of the books along with updating the location of the books in the computer. In addition, she testified that she created and currently updates a procedure manual that the student workers follow.

After April 15, 2010, Appellant Collins testified she took on additional duties of original and copy cataloging. She testified that she ensures the accuracy of the Hayes library, and she works with the BGSU Firelands branch library. Appellant testified that she received supplemental payment in December, 2010. She confirmed that Appellee's Exhibit 13 was correct in stating the amount to be \$1,055.12. She testified that Beverly Stern from Human Resources stated that the special project indication was because the additional duties could not be categorized as temporary.

As for budgetary responsibilities, Appellant Collins testified that she only consulted with her former supervisor to determine if there were sufficient funds to accomplish tasks. Appellant Collins testified that she did not create any policies for the library. She testified she was not responsible for library statistics, but she did keep library statistics for her personal use. Appellant Collins was not responsible

for a newsletter, did not scan any book reviews, did not answer telephones or open mail, nor perform any other clerical duties.

Appellant Collins testified she was informed that there was a possibility of reclassification and that there was never an indication that her new duties were temporary. She testified she submitted a job audit request at the end of June, 2010 in order to get Cliff Glaviano's input before he retired. She stated that the result of the job audit request was that she was properly classified as a Library Associate 2. After that initial result, Appellant Collins testified that Human Resources contacted her and re-opened her job audit sometime in September, 2010. Appellant Collins stated that the job audit was being reopened as Leslie Fern from Human Resources gave the reason that the duties were no longer temporary. Appellant Collins testified that before she was contacted by Leslie Fern, she received a letter stating that her new duties fell within her current classification.

On questioning by her counsel, Appellant Collins, referring to Appellant's Exhibit GG, testified that she, Julie Rabine, and Leslie Fern met on October 7, 2010 to go over the results of the Job Audit Questionnaire. She testified that the result of that meeting was that she was found to be properly classified as Library Associate 2. Appellant Collins identified Appellant's Exhibit S as her Job Audit Questionnaire. She identified the last two pages as the job description that reflects the duties she assumed as of April 2010. Appellant's Exhibit W was identified as her Performance Appraisal that was signed by her past supervisor, Cliff Glaviano. Appellant Collins identified the last two pages as the current job description reflecting her duties as of April 2010. She identified Appellant's Exhibit Y as an e-mail that listed the additional duties she assumed when Chris Plotts and Cliff Glaviano retired.

Appellant's Exhibit Z was identified by Appellant Collins as the email she received stating the duties were temporary. Appellant Collins testified that this was the first time she was told the duties were temporary. She confirmed she received Appellant's Exhibit AA on August 6, 2010, and that she prepared the list of duties attached to the e-mail. She identified Appellant's Exhibit II as the official reply from the Job Audit Questionnaire. Appellant Collins stated she stopped performing Librarian 2 duties on December 1, 2010 when told to do so by Dean Kay Flowers.

Appellant's Exhibit LL was identified by Appellant Collins as an email describing the new work flow procedures. Attached to the email was the State classification specification for Librarian 2. Appellant Collins testified that Appellee's Exhibit 5 was Appellee's classification specification for Librarian 2.

On cross-examination by Appellee's representative, Appellant Collins testified she was correctly listed as the Acquisitions and Cataloging Coordinator in Appellee's Exhibit 1. She identified Appellee's Exhibit 2 as the Job Analysis Questionnaire she submitted sometime at the end of June, 2010. She identified Appellee's Exhibit 3 as the state classification specification for Library Associate 2 that was not being used at BGSU. Appellant Collins identified Appellee's Exhibit 5 as the BGSU description of Librarian 2.

Appellant Collins testified she did not supervise the work flow of the cataloging unit as specified in Appellee's Exhibit 5. She testified that she supervised a student worker and stated she has been involved in planning activities as well as attending webinars. She testified that she does not perform any research or clerical tasks. Appellant Collins identified Appellee's Exhibit 7 as an e-mail she received in July, 2010, stating that the duties she assumed in April, 2010, were temporary. Appellant Collins stated she received Appellee's Exhibit 8, which stated that her duties were in line with the specification for Library Associate 2. She identified Appellee's Exhibit 10 as the results of her job audit which determined she was properly classified as Library Associate 2. Appellant Collins identified Appellee's Exhibit 12 as the Library Associate 2 description sent to her after she received her job audit results. She testified she did not agree with the information in Appellee's Exhibit 12 in that she was also performing original cataloging. She testified that the information in Appellee's Exhibit 12 does not go into enough detail to describe the duties she is currently performing.

Appellant Collins testified she received the payment for special projects as listed in Appellee's Exhibit 13 but she did not sign the form. She testified she never received any documentation that she was being re-classified as a Librarian 2.

On re-examination by her counsel, Appellant Collins testified she believed Appellee's Exhibit V to be an old job description on file in Human Resources. She testified that in comparing Appellee's Exhibit 12 to Appellee's Exhibit V, Appellee's Exhibit 12 was more accurate because it listed cataloging. In referring to Appellee's Exhibit 5, the BGSU specification for Librarian 2, Appellant Collins testified that she

spent approximately fifty-five to fifty-eight percent of her time creating bibliographic records. Overall, she testified she spends ninety percent of her time completing the tasks as listed in Appellee's Exhibit 5.

Clifford Glaviano testified he is not currently employed by BGSU and that his last day of employment was June 30, 2010. He stated he had been employed for twenty-six years by BGSU. Prior to his departure from BGSU, Mr. Glaviano's classification was Associate Professor with the title of Coordinator of Cataloging. He testified he was the immediate supervisor of Appellant Collins for approximately twenty years.

Mr. Glaviano testified that prior to April 15, 2010, Appellant Collins took care of the database, as she ran new headings daily. She updated the database when names and things changed and upon notifications of changes. After April 15, 2010, Appellant Collins began doing the duties he performed with regard to the databases, such as determining if an update is needed when coming across persons and entities with the same name.

Mr. Glaviano testified that the purpose of the April 15, 2010, meeting was to discuss the future of cataloging at BGSU since both he and another long-tenured employee were retiring. The result of the meeting was to divide up the work he and Ms. Plotts performed with Appellant Collins and Appellant Losoya-Rush. Mr. Glaviano testified there was no mention that the new duties assumed by the Appellants was temporary, nor did he believe that the new duties were temporary. Mr. Glaviano testified that he was under the impression that the Job Analysis Questionnaire was the next step in order for Appellant Collins to be reclassified.

On questioning by Appellant's counsel, Mr. Glaviano testified he approved the training of Appellant Collins by Ms. Plotts. He stated that BGSU was looking to fill a new position to do new cataloging.

Christine Plotts testified she was employed at BGSU from 1970 until June 30, 2010. She testified she was classified as a Librarian 2 when she left. Ms. Plotts stated she was told by Cliff Glaviano to train Appellant Collins to perform her duties, which she did. Ms. Plotts testified she was present at the April 15, 2010 meeting and nothing was said at that meeting about Appellant Collins only performing Ms. Plotts' duties on a temporary basis. She testified that the training was too involved to lead to temporary duties.

On questioning by Appellant's representative, Ms. Plotts testified that her former duties were in line with the job description provided in Appellee's Exhibit 5, the BGSU specification for Librarian 2. She stated that the Librarian 2 duties included original cataloging and complex problem solving relating to original cataloging. She testified that Julie Rabine stated at one of the meetings that re-classification would be considered after the assignment of new duties. She testified that there was no indication that the new duties for Appellant Collins would be temporary. Ms. Plotts then identified Appellant's Exhibit R as the procedure that was used for training.

Julie Rabine testified she is employed as the Coordinator of Acquisitions and Cataloging and has held that position since July 1, 2010. She testified she currently supervises Appellant Collins. Ms. Rabine testified that the duties Appellant Collins was trained on were only to be performed by her until a temporary person could be hired. She testified that attempts to hire a temporary cataloger were unsuccessful, but a full-time faculty cataloger was hired on May 2, 2011.

Ms. Rabine testified that after the search for the temporary cataloger was not successful, Human Resources informed her that Appellant Collins could not continue her temporary work for that long. In response to Human Resources, a new work flow was created and Appellant Collins was told to stop her cataloging duties. In addition, she testified that the new work flow was created to centralize the cataloging process within the library as a whole.

Ms. Rabine testified that Appellant Collins was performing all the cataloging within the Acquisitions and Cataloging department. She testified that the department was in a state of flux and it was not clear what duties were going to be assigned to each employee.

On questioning by Appellant's counsel, Ms. Rabine testified that her signing off on Appellant Collins's Job Analysis Questionnaires was her affirmation of the duties she was performing and the support of her right to file a job audit. She identified Appellee's Exhibit 6 as an e-mail stating her belief that the new duties assumed by Appellant Collins were temporary.

Sara Bushong testified she is Dean of the University Libraries as of the date of the hearing. Before that, she was interim Dean for one month and prior to that, she was Associate Dean from July 2010 to April 2011. Prior to that, she was Interim Dean from July 2009 to June 30, 2010. She testified that at the time of the spring meeting in April 2010, she wanted to ensure that the knowledge of retiring staff would be transferred to current employees. She testified that Appellant Collins took on additional duties to ensure this transfer of knowledge. Ms. Bushong testified that the lump sum payment to Appellant Collins was in recognition of the additional duties she performed.

Leslie Fern testified she is the Employee Relations Employment Specialist at BGSU and has held that position for five years. She testified she performed the job audit of Appellant Collins. Ms. Fern testified that Appellant Collins was appropriately classified in her current job description, as the classification of Library Associate 2 allows for portions of original library cataloging. She testified that even though Appellant Collins does not supervise any full-time employees, other than students, it is the policy of Appellee to not downgrade any employee. Furthermore, she testified that the audit considered the time period between June 28 and October 10, 2010.

Ms. Fern explained that when an employee is assigned temporary duties, outside of his or her classification, the employee is awarded a five percent (5%) increase for up to ten weeks. Ms. Fern testified that her office was notified in June, 2010, through the job audit process about Appellant Collins' potentially working out of class. When Ms. Fern was notified about the job audit, she testified that she could not proceed with the job audit because the duties were temporary, as indicated by Ms. Rabine.

Ms. Fern also testified that at the same time, she concluded that the additional duties were in line with Appellant Collins's current classification. Ms. Fern testified that the audit was re-opened in October, 2010, to provide a more thorough review of the duties performed by Appellant Collins. She identified Appellee's Exhibit 9 as her notes on the audit she performed on Appellant Collins' position.

Ms. Rabine testified that the lump sum payment was done as a reimbursement for the work done by Appellant Collins. She testified that this reimbursement was typically done in situations where people had done extra work. Ms. Rabine stated the reimbursement rate was five percent (5%) for the hours from July 1, 2010 to November 30, 2010.

The record was left open until May 24, 2010 to determine if the BGSU Librarian 2 Classification Specification had been filed with the Secretary of State. On May 16, 2011, Appellee stated in a letter that there was no indication that the BGSU Librarian 2 Classification Specification had been filed with the Office of the Secretary of State.

#### **FINDINGS OF FACT**

Since there was no discrepancy in any of the witnesses' testimony as to the duties performed by Appellant Collins for the time period of April 2010 to December 2010, I hereby find that the duties as testified to were, in fact, the duties performed by Appellant Collins.

#### **CONCLUSIONS OF LAW**

At the record hearing, two different classification specifications were presented for the classification of Librarian 2, one being the state classification and the other promulgated by BGSU. The record was kept open to ascertain if the specification promulgated by BGSU was ever filed with the Secretary of State's office or approved by the Department of Administrative Services. On May 16, 2011, Appellee responded that the specification in question was created by Appellee in 1989 and that there was no record of it ever being filed with the Secretary of State's office. Since BGSU does not have its own classification plan, it uses the state specifications; therefore the specification promulgated by BGSU is not valid and not considered in the analysis. Also, administrative notice was taken of the fact that the only state specification applicable to universities in the Librarian series is that of Librarian 1 (non-degreed). The classification specifications for Library Assistant (18311) and Library Associate (18322) were deleted from the classification plan sometime in 2008.

Therefore, that means that the only classification available to Appellant Collins is that of Librarian 1 (non-degreed). There are no other options available. BGSU cannot create any classification specifications because they have not promulgated their own classification plan. Pursuant to section 124.14(F)(1) and (2) of the Ohio Revised Code, a state university can promulgate their own classification plan, but it must be done so in accordance with administrative rules adopted under section 111.15 of the Ohio Revised Code and must be filed with the Secretary of State and the Legislative Service Commission. Until doing so, a university must follow the rules as promulgated by the director of the Department of Administrative Services. Section 124.14(F)(2) of the Ohio Revised Code states as follows:

(2) Each board of trustees shall adopt rules under section 111.15 of the Revised Code to carry out the matters of governance described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.

Since Appellee notified this Board that the specification used by BGSU, Librarian 2, was never filed with the Secretary of State's office and because BGSU has not developed its own classification plan, the only option available to them is to use the state's specifications developed for counties and universities. If BGSU wanted to create their own classification plan, they would have to do so for all classifications, not just one here and there. They cannot pick and choose between the state specifications and their own – it must be all or none. It is unfortunate that BGSU has not created its own classification plan, as the specifications created by the Department of Administrative Services are very outdated and have not been revised to reflect the current technology. Even so, this Board has no choice but to utilize the state specifications since Appellee BGSU has not created its own classification plan. In lieu of creating its own plan, BGSU could request the Department of Administrative Services to update the Librarian 1 classification specification and to create other specifications for that series.

Since the Librarian 1 classification specification is so outdated, the classification specifications for the Researcher series, the Management Analyst series and the Data Librarian 1 were also reviewed. None of those specifications described Appellant Collins's duties any better than the Librarian 1 specification.

The Researcher series required the incumbent employee to collect information relative to transportation projects, to develop policy, conduct field tests, develop research tools and act as a research coordinator. None of these duties apply to Appellant Collins. The Management Analyst series requires the incumbent to supervise either other employees or programs, neither of which Appellant Collins does. The Data Librarian 1 must report to a Senior Data Librarian and the primary duty is to catalog, file and retrieve magnetic tapes and securely label and deliver such tapes. Clearly this duty does not apply to Appellant Collins.

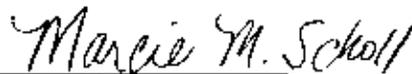
In looking at the Librarian 1 (non-degreed) classification specification, some of it does pertain to Appellant Collins. The primary examples of the first ranked duty are as follows:

Selects, classifies & catalogues books, documents, pamphlets, newsclips, microfiche, slides, films or other library service materials; reviews printed & non-printed library materials & recommends acquisition of new &/or updated materials, supplies &/or equipment; screens materials to insure subject matter is appropriate for & pertinent to needs & interests of assigned library service area; coordinates library services with other departments, libraries or agency divisions; assists in development & implementation of programs for furnishing library materials to segregated units, infirmaries, dormitories &/or other units removed from library itself; maintains running inventory of library service materials & equipment & coordinates use & scheduling of audio-visual equipment & supplies.

In examining the duties of Appellant Collins and comparing her duties to the classification specification for Librarian 1, she did screen materials to ensure that books were labeled correctly and that the headings were correct. She also coordinated work between the Hayes library and the Firelands branch library, as well as transferred books to the stacks that were outdated. After April 15, 2010, she did cataloging duties. She also testified she created a procedure manual for use by the students and kept library statistics for her own use, which is in accordance with the rank two and four duties as found on the classification specification. Therefore, Appellant Collins does do a majority of the functions of the Librarian 1 classification.

As for all of the testimony about the duties that were assumed after April 15, 2010, it has become a moot point. Since there is only one specification, which does not mention copy or original cataloguing, it does not make any difference as to whether or not those duties were or were not temporary. There is only one game in town, so to speak, and all of the library duties must fall into the parameters of that classification specification. It does appear that Appellee wasn't quite sure as to the nature of the added duties, as they could not be classified as "temporary duties", for those are not to exceed a period of ten weeks. Obviously, the work was performed for a period of longer than ten weeks, since Appellant Collins testified she did the duties from April 15 to December 1, 2010. As such, the lump sum payment is a mystery. Appellee testified it was given to Appellant Collins for her work on a special project, but there was no mention of any rule or policy which permits a lump sum payment for special projects. If the work was to be permanent, then no lump sum payment should have been given. The temporariness or permanency of the duties was never discussed until Appellant Collins filed for a job audit and at that point, it seemed that Appellee had to decide what to do. Management did not appear to have made sound and planned out management decisions before assigning additional duties to Appellant Collins and it appeared that decisions were made as problems or issue arose. BGSU could have handled the entire situation differently and better with clearer communication and decisions. That being said, since there is only one option for the classification of Appellant Collins, there was no reduction in her duties after December 1, 2010.

Therefore, it is my **RECOMMENDATION** that Appellee's determination that Appellant Collins is properly classified as a Library Associate 2 be **DISAFFIRMED**, since that classification no longer exists, and that she be properly classified as a Librarian 1 (Non-Degreed), classification number 64311C, effective with the pay period immediately following the date of her audit request.



Marcie M. Scholl  
Administrative Law Judge