STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Amanda Apathy,

Appellant,

v.

Cuyahoga County Board of Commissioners,

Appellee.

Case Nos. 10-REC-06-0146
10-REM-06-0147

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's determination that Appellant's position is most appropriately classified as Administrative Assistant 1, classification number 1052111, be **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14, and the effective date of Appellant's temporary work level be **MODIFIED** from April 25, 2010 to January 6, 2010.

Casey - Aye
Lumpe - Aye
Tillery - Aye

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 constitute ~~(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, June 28, 2011.

Clerk

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

6-28-11 mH

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Amanda Apathy,	Case Nos. 10-REC-06-0146 10-MIS-06-0147
Appellant	
v.	May 13, 2011
Cuyahoga County Board of Commissioners,	
Appellee	Jeannette E. Gunn *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on to be heard pursuant to Appellant's appeal of the results of a position audit. A record hearing was held in the above-referenced matters on September 27, 2010. Appellee was represented at record hearing by Barbara R. Marburger, Assistant Prosecuting Attorney. Appellant was present at record hearing, as well as Catherine Lester, Director of the Cuyahoga Tapestry System of Care, and Albert Bouchahine, Personnel Manager, Cuyahoga County Office of Human Resources. Appellant, Ms. Lester, and Mr. Bouchahine all presented sworn testimony at record hearing.

Jurisdiction of the Board was established pursuant to R.C. 124.03 and 124.14.

FINDINGS OF FACT

Based upon the uncontroverted information contained in the record, as well as testimony presented and evidence admitted at record hearing, I make the following findings of fact:

On December 4, 2009, Appellant's immediate supervisor, Catherine Lester, requested a CPQ review (the "audit") of Appellant's position due to an increase in job duties and responsibilities resulting from reorganization and staffing changes. On January 6, 2010, Ms. Lester submitted a request for temporary work level for Appellant. Ms. Lester's January 6, 2010, request was denied due to the pending audit.

As part of the audit process, Appellant completed and submitted a questionnaire detailing her job duties and the amount of working time devoted to individual job duties. On or about April 16, 2010, Appellant was notified that there was no change recommended to her current classification of Administrative Assistant 1.

On May 18, 2010, Ms. Lester again submitted a request for temporary work level for Appellant. As a result of that request, Appellant's position was placed in a temporary working level (TWL) classification of Administrative Officer, with an effective date of April 25, 2010, through December 31, 2010.

Appellee does not dispute that the duties Appellant was performing at the time the TWL was granted and is anticipated to perform through the end of 2010 are commensurate with the Administrative Officer classification. The duties being performed by Appellant are intended to be carried out on a temporary basis only.

All of the duties identified by Ms. Lester in her May 18, 2010, request for temporary work level as new and additional duties were also reflected in the questionnaire completed and submitted by Appellant in January 2010 as part of her position audit. Appellant was performing the job duties listed in the questionnaire in January 2010.

The amount of time Appellant devoted to performing fiscal, social marketing and support duties increased between January and May 2010, and in June 2010 Appellant was also assigned increased responsibility for maintaining and updating the program website. As staff members left or were hired into the department, Appellant's job duties changed to reflect operational needs.

CONCLUSIONS OF LAW

The primary criteria for this Board to consider when determining the most proper classification for a position are classification specifications, including the function statement, the job duties outlined, and the percentages of time devoted to each job duty. *Klug v. Dept. of Admin. Services*, No. 87AP-306, slip op. (Ohio Ct. App. 10th Dist., May 19, 1988). Unless there is a dispute as to what constitutes the classification specification, no factual issues arise with respect to the classification. Rather, as in all cases of construction, the question becomes one of law as to how the relevant facts relate to the classification specification. *Klug, supra.*

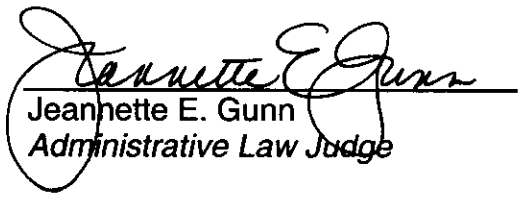
This Board must consider the relation between the classification specifications at hand and testimony presented and evidence admitted. This Board's consideration, however, is not limited solely to the duties contained in the classification specifications, but may also embrace other relevant facts submitted by any of the affected parties. *Gordon v. Dept. of Admin. Services*, No. 86AP-1022, slip op. (Ohio Ct. App. 10th Dist., March 31, 1988).

* * * * *

In this instance, there is no dispute between the parties that Appellant is temporarily performing job duties commensurate with the Administrative Officer classification. There also appears to be no dispute that Appellant is performing these job duties on a temporary basis due to staffing changes and reorganization within the department.

Evidence established that Appellant was performing the job duties outlined in Ms. Lester's May 18, 2010, request for a temporary work level in January 2010. As such, I find that it would be appropriate for Appellee to have made her temporary work level effective as of the date she submitted her CPQ, January 6, 2010. Because Appellant is performing the duties of an Administrative Officer on a temporary basis, however, it would not be appropriate to assign that classification to her position on a permanent basis, therefore, I find that Appellee's recommendation that her position retain the classification of Administrative Assistant 1 to be well-taken.

Accordingly, I respectfully **RECOMMEND** that Appellee's determination that Appellant's position is most appropriately classified as Administrative Assistant 1 to be **AFFIRMED**. I further **RECOMMEND** that the effective date of Appellant's temporary work level be **MODIFIED** from April 25, 2010, to January 6, 2010.



Jeannette E. Gunn
Administrative Law Judge