

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

DAVE FORD,

Appellant,

v.

Case No. 11-REC-12-0411

DEPARTMENT OF PUBLIC SAFETY and
DEPARTMENT OF ADMINISTRATIVE SERVICES,

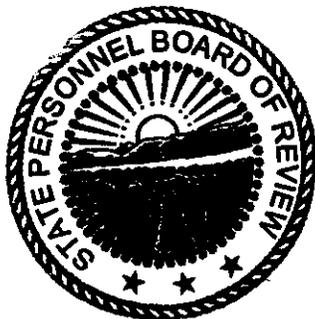
Appellees

ORDER

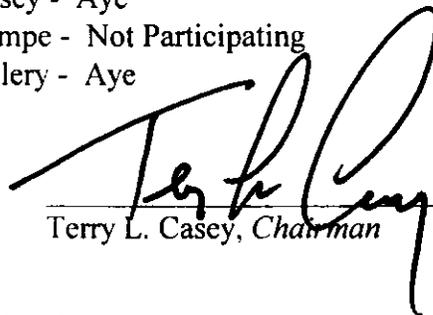
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, 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 the job audit determination of the Department of Administrative Services that Appellant's position should be reclassified to Administrative Officer 2, 63132, is **AFFIRMED**, pursuant to Ohio Revised Code Sections 124.03 and 124.14.



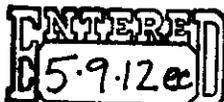
Casey - Aye
Lumpe - Not Participating
Tillery - Aye

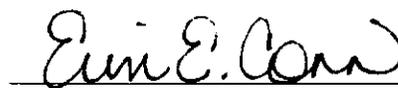

Terry L. Casey, *Chairman*

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 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 09, 2012.




Erin E. Conn
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**

DAVE FORD,

Case No. 11-REC-12-0411

Appellant

v.

March 30, 2012

DEPARTMENT OF PUBLIC SAFETY and
DEPARTMENT OF ADMINISTRATIVE SERVICES,

Appellees

JAMES R. SPRAGUE
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came to be heard on February 21, 2012. Present at the hearing was Appellant, who appeared *pro se*. Appellee, Department of Public Safety (DPS), was present through its designee, Sima Merick, Assistant Director (AD) of the Ohio Emergency Management Agency (EMA), a division of DPS. Appellee, Department of Administrative Services (DAS), was present through its designee, Jessica Schuster, Interim Human Capital Management (HCM) Administrator. Also present was James Hogan, DPS Associate Legal Counsel, and Julie Lee, DPS HCM Administrator.

On or before March 27, 2012, the parties filed written closing statements. The instant record was thereafter closed.

This cause comes on due to Appellant's December 9, 2011 timely filing of an appeal from a job audit determination that laterally reclassified Appellant's position from **Telecommunications Technician Manager (TTM)**, 52417 to **Administrative Officer (AO) 2**, 63132. Both of these classifications are assigned to Pay Range 14. Appellant believes either the **Administrative Officer 3**, 63133, classification (Pay Range 15) or the **Information Technology Manager (ITM) 1**, 64132, classification (Pay Range 16) provides a better fit with Appellant's overall duties.

Notice of the instant job audit determination was issued on November 21, 2011 and was received by Appellant on November 29, 2011. Jurisdiction over the

subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

At hearing, three witnesses testified. First to testify was **Dave Ford, Appellant**, who stated that he will have been employed with the Ohio EMA for nine years as of March 2012. Appellant indicated that his supervisor is Sima Merick, EMA Assistant Director (Deputy Director 4).

Appellant serves as the supervisor over the Communications and Facilities branch of EMA, a division of DPS. Appellant indicated that he has a variety of direct reports in three areas and duty sets. Appellant offered at hearing that those three areas and duty sets include: managing his branch of EMA regarding Block Grants and Communications; managing Emergency Support Coordination; and managing Facilities Maintenance.

Appellant indicated that the emergency support coordination function takes in five areas: the storms data network flash flood warning system; the NOAA weather warning system; the emergency alert system; the 11 Buckeye State Sheriffs Association Regional Communication Vehicles; and the integrated public alert and warning system – with Appellant actively ramping up that fifth area.

Appellant stated that the facilities maintenance function includes exterior and interior physical plant support and maintenance coordination at EMA's headquarters building. It also includes the EMA inventory, building inventory, and audits.

Appellant indicated that he has three direct reports: an Administrative Assistant 3 [now Program Administrator 2] (Facilities Manager); a Project Engineer 3 (Facilities Engineer); and a Telecommunications Manager performing the role of a Telecommunications Supervisor.

Under the Facilities Manager are a Maintenance Repair Worker 2 and a Maintenance Repair Worker 3. Under the Facilities Engineer is an Inventory Specialist 2. Under the Telecommunications Supervisor are two Information

Technology Specialist 2s, three Infrastructure Specialist 1s, and one Infrastructure Specialist 2.

In Appellant's job audit packet (Appellees' Joint Exhibit 3), DAS HCM Senior Analyst Katie Graham summarizes Appellant's description of his job duties that he supplied to DAS, as follows:

The employee describes the following main purpose of his job:

To oversee the statewide data wireless and voice communications circuits associated with Ohio EMA to include Emergency Alert Systems (EAS), State of Ohio Rain Monitoring System (STORMS), National Weather Service (NWS) WAN wide area network and the state emergency operations center digital video systems. Also included are building facility management and Fleet management. This includes project management, policy, procedure and plan development, purchasing and budgetary concerns, employee supervision, representing Ohio and Ohio EMA in high level regional and national meetings, advising senior leadership on matters involving the branch and during major Ohio Disasters coordinating the communications emergency support functions 2 (ESF 2) at the state emergency operations center.

Ms. Graham continues with her summary by stating:

The employee outlined the following duties:

25% Project Management: Originating initial project ideas and scope, Assigning project duties. Approving project purchases and budgets. Designing or specifying project components or systems. Creating project timelines. Overseeing life cycle of ongoing projects.

15% Participating in high level or strategic meetings: Providing technical advice and guidance to my superiors and other internal/external customers. Creating specifications or technical plans for projects. Coordinating meetings with outside vendors and project members. Acting as committee chair person. Representing Ohio EMA to federal and local partners.

45% Track progress and provide direction on active assignments to supervisors and workers: Hold staff meetings and check on branch direction and issues. Assign new action items to staff. Mediate issues with branch staff and other branches and outside customers. Pass on information to staff on status of the agency and changes in policy or procedures. Give individual guidance and direction to workers as needed. Create systems for attaching metrics to productivity and for tracking worker progress.

7% Training and presentations: Create training presentations and designing class materials. Host training class or seminar. Organize class meetings, invite guest speakers to classes.

8% Disaster related duties: Scheduling technician overtime shifts, assuming ESF 2 duties coordinating state EOC audio visual, telephone and radio support. Coordinating joint field office communications equipment installation.

Next to testify at hearing was **Sima Merick**, Ohio EMA Assistant Director. AD Merick agreed with the testimony offered by Appellant. AD Merick also provided an overview of the entirety of the operations of the Ohio EMA and its place as one of the eight divisions of the Ohio Department of Public Safety.

Last to testify was **Jessica Schuster**, Interim Administrator of DAS' Office of Workforce Administration. At hearing, Ms. Schuster reviewed various components of the classification specifications for: Telecommunications Technician Manager, 52417; Information Technology Manager 1, 64132; and Administrative Officer 1, 2, and 3, respectively 63131, 63132, and 63133.

Ms. Schuster noted that the TTM is required to plan and direct a telecommunications technician section comprised of two or more units that must perform hardware support, planning and control, and system administration. DAS has concluded that Appellant does not perform these functions and, thus, conducted a further review to ascertain the most appropriate classification for Appellant's duties.

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Ms. Schuster noted that the AO class series is designed to include an incumbent's overview and administrative management of a variety of functions where the requisite personnel serving under the incumbent do not hold what would be considered "technical" classifications. Ms. Schuster further averred that the class concept for the AO 2 classification requires the incumbent to plan, direct, and coordinate the activities of a major division, section, or bureau of a state agency and supervise assigned staff. **She noted that Appellant does perform these duties and also does so over a requisite "section".** That term is defined in the glossary for the AO series as: "Comprised of two or more work units, with each unit having a minimum of two full-time permanent employees. At least one unit must be headed by a supervisory employee."

Ms. Schuster opined that the AO 3 specification would not apply to Appellant's position. This was because, she declared, an AO 3 must supervise multiple major sections or a division, must have an AO 2 or equivalent directly report to the incumbent, and cannot include under this class the monitoring of staff activities that are already described in other classifications that are specifically designed for those functions.

Ms. Schuster further offered that the ITM 1, 64132 specification would not apply to Appellant's position. This is because, she averred, Appellant does not supervise a section with the requisite personnel as specified in the first component of the ITM 1 class concept, does not sufficiently perform project management to qualify for the second component of the ITM 1 class concept, and does not serve in the office of a state Chief Information Officer (CIO) to qualify for the third component of the ITM 1 class concept.

It is noted that the first component of the ITM 1 class concept specifically requires the incumbent to manage a section that must be "comprised of two or more information technology specialists &/or analysts, &/or systems programmers, &/or other technical staff". It would appear that Appellant heads a section where one unit (but not a second unit) is comprised of the required personnel in this first component of the ITM 1 class concept.

Accordingly, Ms. Schuster concluded that DAS' lateral change in Appellant's classification to AO 2, with no impact on his pay, was appropriate and that it offered the best fit with Appellant's duties as contemplated by the State of Ohio's class plan.

Based on the testimony presented and evidence admitted at hearing and upon the post hearing submissions of the parties, I make the following Findings:

First, I note that I incorporate herein, any finding set forth, above, whether express or implied.

Next, I adopt, by reference, the breakdown of duties offered by Appellant, as summarized by DAS in its job audit packet.

Further, I find that Appellant's duties and responsibilities do not comport with the supervisory requirements set forth in the **TTM** class concept. Specifically, the type of work performed by Appellant's subordinate units does not meet the work composition requirement set forth in the TTM class concept.

Additionally, I find that Appellant's duties and responsibilities do not comport with the various requirements set forth in the **ITM 1** class concept. This is because Appellant does not supervise the requisite subordinate personnel contemplated by the first component of the class concept, does not perform the level of project management contemplated by the second component of the class concept, and does not perform his duties in a work environment attached to the office of a state-level CIO contemplated by the third component of the class concept.

I find, however, that Appellant's duties and responsibilities do fit with the class concept for the **AO 2** specification. Specifically, Appellant does plan, direct, and coordinate the activities of a major section (as defined by the AO series purpose glossary). Further, Appellant has a combination of "technically-oriented" and "non-technically-oriented" direct and indirect reports and the State of Ohio class plan does not appear to require this combination of employees to be supervised through another class. **Thus, the AO 2 class appears to offer the best fit with Appellant's overall duty sets.**

Yet, the **AO 3** class appears to contemplate duties that exceed Appellant's current duties and responsibilities. The reasons for this include the fact that Appellant does not supervise multiple major sections or a division, does not supervise an AO 2 or equivalent class, and does not supervise other requisite personnel contemplated by the AO 3 class concept.

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In summary, Appellant's duties and responsibilities do meet the requirements of the AO 2 class. However, they do not meet the requirements of the TTM class, the ITM 1 class, or the AO 3 class.

CONCLUSIONS OF LAW

This case presents this Board with the question of whether DAS' job audit determination and corresponding reclassification of Appellant's position from Telecommunications Technician Manager, 52417 to Administrative Officer 2, 63132, should be affirmed? This Board should answer this question in the affirmative and, so, should affirm DAS' job audit determination and corresponding reclassification.

I have found, above, that Appellant's duties do not meet the requirements of his previous class of TTM nor do they meet the requirements of the ITM 1 or AO 3 classes. However, I have found, above, that Appellant's duties do meet the requirements of the AO 2 class. Accordingly, Appellant's position should be reclassified to AO 2.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the job audit determination of the Department of Administrative Services that Appellant's position should be reclassified to Administrative Officer 2, 63132, pursuant to R.C. 124.03 and R.C. 124.14.


JAMES R. SPRAGUE
Administrative Law Judge

JRS: