

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

Jolene Whaley,

Appellant,

v.

Case No. 2012-REC-01-0003

Department of Youth Services, Central Office and
Department of Administrative Services,

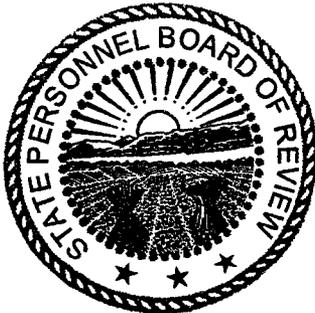
Appellees.

ORDER

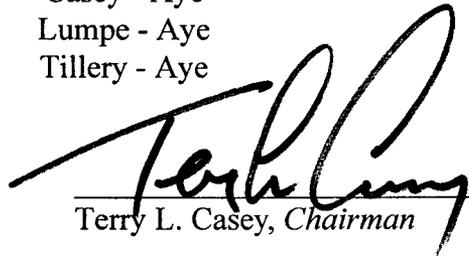
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellant's position be **RETAINED** in the HCM Senior Analyst classification.



Casey - Aye
Lumpe - Aye
Tillery - Aye

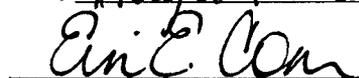


Terry L. Casey, *Chairman*

CERTIFICATION

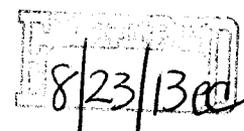
The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto 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, August 23, 2013.



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**

Jolene Whaley,

Case No. 2012-REC-01-0003

Appellant

v.

July 8, 2013

Department of Youth Services,
Central Office,

And

Department of Administrative Services,

Jeannette E. Gunn

Appellees

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on due to Appellant's timely appeal of the results of an audit conducted on her position. The audit was conducted by staff of the Department of Administrative Services (DAS) Human Resources Division, and resulted in a finding that the proper classification for Appellant's position was Human Capital Management Analyst, classification number 64652.

A record hearing was held in the instant appeal on January 7, 2013. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Youth Services (DYS) was present at record hearing through its designee, Bureau Chief of Human Resources and Employee Relations Rochelle Jones and was represented by Assistant Chief Counsel Marla K. Burton; Appellee DAS was present at record hearing through its designee, Human Capital Management (HCM) Manager Ashley Hughes.

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

STATEMENT OF THE CASE

Appellant testified that she is presently employed by DYS in its Central Office. She indicated that her position is currently classified as HCM Senior Analyst and that her immediate supervisor is Rochelle Jones, who occupies a position classified as HCM Administrator 2. Appellant noted that she was formerly supervised by Dorothy Evener, who occupied a position classified as HCM Administrator 1, until Ms. Evener's retirement August 1, 2011.

Appellant recalled that Ms. Evener recommended and requested prior to her retirement that Appellant's position be upgraded to HCM Manager, but the request was denied after Ms. Evener retired. Appellant indicated that she filed a request for a position audit on September 26, 2011, and that she believes a classification of HCM Manager more accurately describes the duties she performs.

Appellant confirmed that she completed a position audit questionnaire as part of the audit process and stated that the information she provided therein regarding her job duties and the percentages of time devoted to those duties was substantially accurate at that time. She noted that she still performs these same duties and that no duties have been changed or added.

Appellant stated that the primary purpose of her position is to provide personnel services for DYS Central Office and Parole Services. She indicated that she reviews all position descriptions generated by institutional and regional office staff to be sure that they are in class compliance, that the listed duties are accurate and that the knowledge, skills and abilities (KSA) requirements match the duties before forwarding them to the Director of DYS for approval. Appellant noted that she also writes position descriptions as necessary and contacts facility personnel as needed regarding changes in site-generated position descriptions.

Appellant testified that she serves as a resource for HCM Senior Analysts in DYS' institutions and regional parole offices, and provides direction and advice in response to their questions. She noted that the institution and regional office staff prepare their own personnel actions and send them to Central Office; when she receives the personnel actions she verifies that vacant positions are approved by the Office of Budget and Management to be filled, checks to be sure that applicants meet the minimum qualifications for the position, and ensures that any necessary documentation is attached to the personnel action form. Appellant indicated that

she enters any necessary information into the OAKS system, approves the action and sends the appropriate paperwork to the Department of Administrative Services and to the institution. She stated that she approves position-specific minimum qualifications (PSMQs) and tracks personnel actions within the agency.

She testified that she also sometimes travels to DYS institutions to assist with personnel actions such as layoffs. Appellant noted that coordination of layoffs has consumed a large portion of her working time in the past and that she sometimes takes over the responsibility for explaining rights and layoff procedures to employees of the institutions she is assisting.

Appellant noted that Ms. Jones stated in her response to the position audit questionnaire that Appellant acts in her absence for 30% of the time, while Appellant estimated it to be 50%. She testified that she and Ms. Jones are the only employees who have signature authority for the Director on position descriptions and stated that although the Director currently signs all position descriptions, she was the only individual who signed them on a daily basis in the past.

Appellant testified that she is responsible for coordinating the unclassified appointment process for DYS and provides relevant information to the Governor's Office for approval. She noted that Ms. Jones reviews the information before it is sent to the Governor's Office, but her previous supervisor did not. Appellant stated that in Ms. Jones' absence she contacts the Governor's Office to follow up on any problems with pending unclassified appointments.

Appellant testified that she responds to inquiries regarding policy and procedure on behalf of her supervisor.

Appellant stated that she participates in all hiring interviews for Central Office positions and makes recommendations about both the process that is followed and the candidates for the position. She noted that she reviews interview questions to be sure that they are substantial and proper and discusses candidate qualifications with other staff on the interview panel.

Appellant testified that she was involved in workforce planning activities such as succession planning, career ladders and mentoring as part of the Governor's Initiative in 2009 or 2010. She noted that in the past she has served as the

personnel management representative on labor-related committees and was part of a group that developed personnel policies in 2004 or 2005.

Dorothy Evener testified that she was Appellant's immediate supervisor from 2009 through 2011, when she retired from her position with Appellee as Bureau Chief of Human Resources. She recalled that Appellant was the Personnel Manager for Central Office during the time she supervised her and was independently responsible for approving, signing and authorizing all personnel actions, tables of organization, and any other personnel-related matters forwarded from the institutions and regional parole offices.

The witness indicated that Appellant had greater responsibility than institution-based staff. Ms. Evener noted that Appellant participated in statewide work groups during the time she supervised her, including those dealing with layoffs, the workforce development initiative, and evidence-based documentation for job classifications.

Ms. Evener confirmed that Appellant interacted with the Governor's Office on behalf of the agency and was responsible for coordinating the unclassified hiring process, especially background investigations and obtaining final approval for candidates.

Rochelle Jones testified that she is presently employed by DYS as its Bureau Chief of Human Resources and Employee Relations, and that her position is classified as HCM Administrator 2. She confirmed that she has been Appellant's immediate supervisor since August 1, 2011, and is familiar with her day-to-day job duties.

Ms. Jones indicated that Appellant is responsible for presenting the Human Resources component of pre-service training for newly hired employees. She noted that the position description for Appellant's position dated August 17, 2007, which was attached to the Employers Response to the position audit questionnaire accurately describes the duties presently performed by Appellant.

Ms. Jones stated that Appellant processes personnel actions for DYS Central Office and its five regional Parole Offices. She indicated that HCM Senior Analysts at the facility level process personnel actions for their own institutions and send them to Central Office, where Appellant checks them for accuracy and

completeness and then forwards them to DAS. Ms. Jones noted that Appellant reviews information for employees in pay ranges below pay range 12; the witness reviews those in pay range 12 and above, and Facility Programs and Operations Bureau Chief Amy Ast reviews information for Operations Managers and Unit Managers.

The witness indicated that Appellant prepares and maintains Central Office position descriptions and tables of organization. She testified that facility level staff update their own tables of organization and are responsible for checking their own institution's position descriptions for accuracy. Ms. Jones confirmed that institutions also send their position descriptions to Central Office and Appellant checks them for accuracy and completeness.

Ms. Jones stated that Appellant posts Central Office vacancies that have been approved to be filled, checks applications to ensure that applicants meet the minimum qualifications for the position and then forwards applications to the appropriate supervisor for screening and selection for interviews. She noted that Appellant schedules applicant interviews and that either she or Appellant sits on the interview panel to make sure that the process is followed correctly. The witness testified that HCM Senior Analysts in the institutions conduct interviews and screen applicants at the facility level.

The witness indicated that Appellant processes all unclassified appointments for DYS, but that no information is submitted to the Governor's Office without first being approved by her or by Amy Ast. She stated that Appellant does not approve position descriptions for unclassified positions. Ms. Jones noted that she contacts the Governor's Office herself to handle any problems with unclassified appointments.

Ms. Jones testified that Appellant provides direction and advice for institutional staff within her area of expertise, as do all Central Office employees. The witness stated that she responds directly to all executive staff inquiries and is rarely out of contact, but confirmed that Appellant may respond on her behalf if she is not able to do so. The witness noted that she personally handles all bargaining unit issues.

Ms. Jones stated that she was not aware of any statewide committees of which Appellant is currently a member. She noted that although Appellant may have served on the Regional Workers Assistance Committee in the past, the

committee has not met since 2010 and, at this time, no one from DYS is appointed to it.

Ms. Jones testified that Appellant does not develop new programs and does not update personnel policies. The witness testified that she is the individual responsible for developing succession plans and workforce planning.

Ashley Hughes testified that she is presently employed by Appellee Department of Administrative Services (DAS) as an HCM Manager. She indicated that she was familiar with Appellant's position audit and the conclusion reached by the individual who performed the audit. The witness confirmed that the DAS auditor did not conduct an on-site interview with Appellant as part of the audit process.

Ms. Hughes stated that after reviewing the written information submitted by Appellant and her supervisor in the position audit questionnaire, the DAS auditor determined that Appellant performed duties associated with the personnel actions and position descriptions sub-programs, but did not coordinate the processes. She noted that the auditor found no information to confirm that Appellant coordinated advanced sub-programs.

FINDINGS OF FACT

Based upon the testimony presented and evidence admitted at record hearing, I make the following findings of fact:

Appellant requested an audit of her position on or about September 26, 2011 and completed a position audit questionnaire as part of the review process. The position she occupies is currently classified as HCM Senior Analyst; Appellee DAS determined that the position was more accurately classified as HCM Analyst and recommended a downward change in classification. Appellee believes that her position should be classified as HCM Manager.

Appellant provides personnel services and processes personnel actions for DYS Central Office staff and staff in Appellee's five regional Parole Offices. HCM Senior Analysts at the facility level process personnel actions for their own institutions and send them to Central Office. Appellant checks these for accuracy and completeness before forwarding them to DAS. She reviews information for

employees in pay ranges below Pay Range 12. Appellant enters information into the OAKS system as necessary, approves the action and sends the appropriate paperwork to DAS and to the institution.

Appellant prepares and maintains Central Office position descriptions and tables of organization. HCM Senior Analysts at the facility level update their own tables of organization and are responsible for preparing and maintaining position descriptions for staff in their institution, and ensuring that the position descriptions are accurate. Institution staff send their position descriptions to Central Office, where Appellant checks them again for accuracy and completeness and forwards them to the Director of DYS for approval; the Director currently signs all position descriptions and has done so since September 2011.

Appellant posts Central Office vacancies that have been approved to be filled, checks applications to ensure that applicants meet the minimum qualifications for the position and forwards applications to the appropriate supervisor for screening and selection for interviews. Appellant schedules applicant interviews and may sit on the interview panel to make sure that the process is followed correctly. HCM Senior Analysts in the institutions conduct interviews and screen applicants at the facility level.

Within her area of expertise, Appellant serves as a resource for HCM Senior Analysts in DYS' institutions, and provides direction and advice in response to their questions. Appellant approves PSMQs and tracks agency personnel actions. She assists DYS institutions in the coordination of large-scale personnel actions such as layoffs and, in the past, has traveled to the institutions she is assisting to explain rights and layoff procedures to employees. Appellant is responsible for presenting the Human Resources component of pre-service training for newly hired employees.

Appellant processes all unclassified appointments for DYS and provides relevant information to the Governor's Office after it has been approved by her supervisor or by Ms. Ast. Appellant does not approve position descriptions for unclassified positions and Appellant's supervisor works directly with the Governor's Office to resolve any problems with unclassified appointments.

Appellant responds to executive staff inquiries in her supervisor's absence and acts in her place for approximately 30% of her working time. Appellant does not

develop new programs and does not update personnel policies. She does not directly supervise any other employees.

CONCLUSIONS OF LAW

Pursuant to OR.C. 124.03(A), this Board is empowered to hear appeals of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to, *inter alia*, refusal of the director of administrative services, or anybody authorized to perform the director's functions, to reclassify an employee's position, with or without a job audit under O.R.C. 124.14(D). ORC. 124.14(D)(2) provides that the Board is to consider anew reclassifications and may order the reclassification of an employee's position to such appropriate classification as the facts and evidence warrant. The Board's decision must be consistent with the applicable classification specifications.

The primary criteria for this Board to consider when determining the most proper classification for a position are classification specifications, including the class concept, 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). The Board will consider evidence related to the job duties performed by Appellant from the date the job audit was requested through the date of record hearing.

As a general rule, a party seeking reclassification to a higher position must demonstrate that they meet substantially all of the qualifications of the higher position. *Harris v. Dept. of Admin. Services*, No. 80AP-248, slip op. (Ohio Ct. App. 10th Dist., September 25, 1980); *Deist v. Kent State Univ.*, No. 78AP-28, slip op.

(Ohio Ct. App. 10th Dist., May 23, 1978.) The incumbent need not perform every duty enumerated within the body of the specification for his or her position to fall within a particular classification specification; it is sufficient if all of the job duties actually performed fall within those specified for the classification. See *Klug, supra*. O.A.C. 123:1-7-15, however, notes that the class concept of each classification title sets forth the mandatory duties that must be performed by an incumbent for at least twenty percent of his or her work time.

* * * * *

In conducting this review of Appellant's job duties, the Human Capital Management classification series was considered. The series purpose of the Human Capital Management classification is to perform, coordinate &/or manage human resources programs. Classification specifications examined within the series were HCM Analyst, classification number 64612; HCM Senior Analyst, classification number 64613; and HCM Manager, classification number 64615.

The class concept of the HCM Analyst classification specification, which is the classification recommended by Appellee DAS' auditor, provides that an incumbent works under general supervision and shall:

... perform two or more human resources sub-programs for assigned agency, district, division or institution ...

The class concept of the HCM Senior Analyst classification specification provides that an incumbent works under direction to:

... serve as human resources coordinator for agency, district, division or institution (i.e., coordinate one or more advanced human resources sub-programs, or coordinate advanced and/or non-advanced human resources sub-programs and supervise assigned staff, or manages and oversees all personnel activities for assigned institution) ...

The class concept of the HCM Manager classification specification, which is the classification sought by Appellant, provides that an incumbent works under general direction to:

... serve as agency human resources manager (i.e., on behalf of agency, responsibly direct implementation of human resources sub-programs), or do preceding and supervise assigned staff.

* * * * *

Testimony and evidence presented at record hearing indicated that Appellant is responsible for performing and for coordinating two or more human resources sub-programs (i.e., personnel actions and position descriptions) for Central Office and the Regional Parole Offices assigned to her, as well as reviewing and approving personnel actions and position descriptions submitted by institution-based staff to Central Office. As noted in her position description, Appellant is also responsible for the validation of PSMQs, which is an advanced human resources sub-program.

I find that although Appellant does perform and coordinate advanced and non-advanced human resources sub-programs, she does not direct their implementation on behalf of the agency, as required by the class concept for the HCM Manager classification and illustrated more fully in the job duties section of the classification specification. Appellant does provide other staff with advice and direction within her area of expertise, however, I find that such assistance is not of the scope and nature contemplated by the HCM Manager classification specification.

Appellant provided testimony indicating that she performed additional duties and exercised greater authority when she was supervised by Ms. Evener, however, the time period to be examined by this Board begins with the September 2011 date that Appellant filed her request for a position audit. The record reflects that Appellant's job duties were revised upon Ms. Jones' appointment as Appellant's direct supervisor in August 2011.

Therefore, based upon the above analysis, I find that the classification specification which most accurately describes the job duties performed by Appellant is HCM Senior Analyst, classification number 64613. It is my **RECOMMENDATION** that Appellant's position be **RETAINED** in the HCM Senior Analyst classification.



Jeannette E. Gunn
Administrative Law Judge