STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Mary Cornwell,

Appellant,

v. Case Nos. 2013-REC-02-0047
2013-MIS-02-0048

Department of Administrative Services,

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 the Appellant be **RECLASSIFIED** to the position of a Training Program Manager, classification specification number 64656, following the first pay period after she sent in her audit request.

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, September 04, 2013.

Clerk

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

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STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Mary Cornwell,

Appellant

v.

Dept. of Administrative Services,
Human Resource Division
Compensation and Workforce Planning,

Appellee

Case No. 13-REC-02-0047
Case No. 13-MIS-02-0048

August 1, 2013

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 April 22, 2013 at 10:00 a.m. Present at the hearing was the Appellant, Ms. Mary Cornwell, who was represented by Marc E. Myers, and the Appellee, Department of Administrative Services (DAS), Human Resource Division Compensation and Workforce Planning, was present through its designee, Ms. Jessica Schuster, an Administrator in DAS's Human Resources Division in the Office of Workplace Administration, and the Appellant's immediate supervisor was present, Ms. Katrina Flory, Chief Administrator in the Office of Information and Technology. The Appellee was not represented by any Assistant Attorney General, or outside counsel. The Appellant, Ms. Mary Cornwell and the Appellant's immediate supervisor, Ms. Katrina Flory, Chief Administrator in the Office of Information and Technology, along with Ms. Jessica Schuster, an Administrator in DAS's Human Resources Division in the Office of Workplace Administration, who did not complete the audit, but was familiar with it, offered testimony at this record hearing.

On or about November 14, 2012, the Appellant, Ms. Mary Cornwell, requested a job audit of her position as a Program Administrator 1, classification specification number 63122. On or about January 14, 2013, the Appellant, Ms. Mary Cornwell, received the results of the audit request which notified her that her proper classification for her position was that of a Program Administrator 1. After receiving the job audit results, the Appellant timely filed her appeal to this Board on or about February 7, 2013. It should be noted that the aforementioned was stipulated to, as well as, the subject matter jurisdiction of this Board was established.

Before proceeding onto the record hearing, the Appellant, Ms. Mary Cornwell, stated that although she is presently classified as a Program Administrator 1, she is seeking to be reclassified to either the positions of a Training Program Manager, classification specification number 64656, a Project Manager 1, classification specification number 63381 and/or a Program Administrator 3, classification specification number 63124. Additionally, the classification specification of an Administrative Professional 1, classification specification number 16871 and the classification specification of a Customer Service Assistant, classification specification number 64431, as suggested by the Appellee were also reviewed in seeking a resolution of this matter.

STATEMENT OF THE CASE

The first witness to testify was Ms. Mary Cornwell, who was held the position of Program Administrator 1 for approximately the last year and a half, and prior to that she held the position of Administrative Assistant 2 since 2001. When questioned, the witness testified that as an employee of DAS her work location was in the Rhodes Tower on the 39th floor. Further, when questioned, Ms. Cornwell explained that Ms. Katrina Flory, the Administrator in the Office of Administration in Information and Technology, has been her supervisor since 2008. The witness explained that Ms. Flory has three direct subordinate reports two being Administrative Professionals and herself as a Program Administrator 1. The witness explained that their section which they are located in is the Office of Administration within the Office of Information and Technology division of DAS. Additionally, the witness explained that there are many different sections, such as Planning, Projects, Success Center and the Business Office, just to name a few in addition to the Office of Administration. When questioned as to what the mission of her section explained that they are there in the Office of Administration to ensure that things work. Further, the witness testified that she is a full-time employee working 40 hours per week Monday through Friday from 8:15 AM to 4:45 PM. Furthermore, the witness testified that during a normal workday she works for the most part autonomously, wherein she has no supervisory duties, nor lead worker responsibilities.

Next, the witness identified Joint Exhibit 1, section 1 as the employee's job audit questionnaire package starting on page 4 of 15, and explained the percentages of time broken down into different job tasks were duties and/or responsibilities that she was performing when she filled out the questionnaire, as well is still performing these duties today. With regards the first 25% of her job duties listed thereon, the witness stated that she works as a Program Administrator for the Learn It Ohio Program, as she manages and updates the E-Learning Program for all state of Ohio employees which contains over 3000 courses, 9000 books and 1300 videos. The witness explained that she maintains the database of the Skill Soft software and that she coordinates and troubleshoots issues for all state employees and the agency contacts for the 160 state of Ohio agencies and Boards and Commissions who utilize the Exempt Professional Developmental Fund. Further, when questioned, the witness testified that along with tracking statistics, analysis and evaluation of the program she also manages the relationship between the state of Ohio and the Skill Soft Corporation, along with the learning strategist to put together a better product.

With respect to the next 25% of the job duties listed thereon Joint Exhibit 1, section 1, on page 4 of 15, the witness explained that she has to have a strong understanding of all the areas on the E-Learning site, in order to develop agency workgroups to assist agency teams in conjunction with Skill Soft new course development by creating and designing and updating coursework for job enhancement. The witness explained that with her ability to discuss product features and benefits with learners and to provide support via e-mail and telephone, she could accomplish these tasks. Furthermore, the witness testified that on a daily basis she would update and add new and delete old users from the system, as well. Additionally, the witness testified that she also monitors the system performance through e-mails; telephone contacts and surveys and upkeeps the Skill Soft Portal site by adding links, website improvements and materials, as needed. The witness explained that she put together an Excel spreadsheet report to track usage.

With the third 25% of the job duties listed thereon Joint Exhibit 1, section 1, on page 4 of 15, the witness testified that with her strong understanding of the e-learning administration tools and database management she is able to help her point of contacts with the agencies to better able to utilize the programs in place. Moreover, the witness explained that she can help and/or troubleshoot with the point of contact at the agency with regards to the Skill Soft Portal.

The next 15% of the job duties listed thereon Joint Exhibit 1, section 1, on page 4 of 15, was explained by the witness as she tries to ensure the promotion and use of the skill soft programs for e-learning, plans training events to increase usage for the e learning program, along with training new agency administrators via PowerPoint and telephone support. Lastly, the last 10% of the job duties listed thereon Joint Exhibit 1, noted as other duties as assigned, was explained by the witness that she coordinates floor space requests, acquisition and changes to equipment for OIT administration, among other things.

The witness then identified the classification specification of a Program Administrator 1, and explained that she does not act for her administrator as she does not independently answer complex and/or confidential correspondence, nor did she conduct staff meetings to discuss rules operating procedures relating to assigned area. Further, the witness testified that she does not serve as a liaison between the administrator and her subordinates and/or transmits decisions or directives or represents that administrator at meetings or conferences and/or formulates and implements program policy and assumes responsibility in the administrator's absence, nor did she supervise any staff. Moreover, the witness testified she does not research or analyze programs, procedures and policies or develop any program proposals or plans. However, the witness did state she would provide technical advice to aid administrators in decision-making with respect to the Skill Soft software. Additionally, the witness testified that she does not manage the business function of the administrator's office, nor did she prepare and administer any budget or authorizes any expenditures and purchases. On the other hand, the witness did state that she would research and respond to inquiries and complaints and furnish information to interested parties when requested.

The witness then identified the classification specification of a Program Administrator 3, and explained that she does not act for her administrator as she does not provide program direction for staff or ensure compliance with state and federal program requirements or advocate for legislation to enhance services/programs. Additionally, the witness testified that she does not provide regular direction to division heads or other staff members or conducts staff meetings to discuss and execute policies and procedures, and/or review proposals of division heads and other staff members to make recommendations to the administrator, or assume full responsibility and authority in the administrator's absence. However, the witness did state that she would act for the administrator in administering the statewide agency program with respect to the Skill Soft and or e-learning program.

Again, when questioned, the witness testified she did not supervise any assigned staff, nor did she develop and revise any program, but would provide technical advice to aid the administrator in decision-making, as called for in this classification specification.

The witness then identified the classification specification of a Training Program Manager, and testified that while she does not develop, she does implement and administer an assigned organizational development program, the Learn It Ohio Program, while utilizing the Exempt Professional Development Fund for exempt state employees. When questioned, the witness testified that she does not formulate and/or implement applicable policies and procedures or determine the program's budget requirements, but she does direct the marketing and recruitment aspects of the program; conducts staff, provider and educational advocate meetings in implementing and administering the Learn It Ohio Program. Moreover, the witness testified that she does develop and oversee the procedures for student/employee tracking, testing, guidance and work related projects, along with designing the training course catalog for statewide distribution. However, the witness testified that she is not assigned and does not supervise any support staff, something that is not called for in the actual classification specification for one to do.

The witness then identified the classification specification of a Project Manager 1, and testified that while she does not manage assigned project(s), with or without subprojects, that covers all phases of project management. Further, when questioned, the witness testified that she does not implement and/or monitor policy or ensure compliance and/or make recommendations or modifications to facilitate end-user compliance to policy or establishes guidelines for policy compliance. Additionally, when questioned, the witness testified that she does make project presentations to educate/train end-users on the Learn It Ohio Program, but that she does not define the project requirements, quality standards and timelines and/or determines and evaluates risks that may affect the project. Moreover, when questioned, the witness testified that she does not supervise and/or direct professional, technical and/or administrative/clerical staff as called for in the classification specification, as well.

Next, when questioned as to what her most important job duty, explained for her to deliver good customer service and making sure the program is working and whoever is using it gets what they need. Additionally, when questioned if there were any job duties which are not stated above, testified that she does assist and fill in at the front desk when, and if needed, for the other two employees who work in her section.

Upon questioning by counselor Myers, the witness explained that she holds an Associates Degree in Business majoring in Accounting, along with holding Bachelor of Art degrees in both Latin and Greek, a Masters in Information and Technology Management and is one semester away from getting a Masters in Adult Education and Training. The witness testified that the Learn It Ohio Program has been in existence since June 2010, but at first it was only a learning porthole for IT professionals, then in June/July 2012 it expanded to all exempt professional employees falling under the ETP fund. Further, the witness testified that there is only one vendor, that being Skill Soft, along with noting that she could make a proposal with regards to the training of end-users. Additionally, the witness explained that each agency, typically the human resource person, is the contact she is in touch with to explain the process of signing up and utilizing the Learn It Ohio Program. The witness testified that she can and she has put together programs tailored for individual agencies, in regards to their employee training.

The next person to testify was Ms. Katrina Flory, Administrator in the Office of Information and Technology. Who explained that she is the immediate supervisor of the Appellant herein, a position she's held for approximately last four years. Specifically, when questioned, if the Appellant's testimony regarding her job duties and/or responsibilities were accurate, Ms. Flory testified that she would change Ms. Cornwell's explanation that she managed the Skill Soft and Learn It Ohio Program, to her acting as a liaison or a contact between the agencies and the Learn It Ohio Program, to better describe her job tasks and responsibilities. When questioned, the witness testified that if an agency contacted Ms. Cornwell to inquire as to what program would be most beneficial for their employees, Ms. Cornwell in turn would contact the Skill Soft Administrator to get this information.

The last person to testify was Ms. Jessica Schuster, an Administrator in DAS's Human Resources Division in the Office of Workplace Administration. When questioned, the witness testified that she did not perform the audit on the Appellant's position, as Ms. Morgan Webb, a Human Capital Management Senior Analyst, performed it, but that she is familiar with the rationale. Further, when questioned, the witness testified that Ms. Webb found that the Appellant, Ms. Mary. Cornwell was found to be properly classified as a Program Administrator 1. Additionally, when questioned, Ms. Schuster testified that after listening to Ms. Cornwell's testimony, and her lack of policy making responsibility, might have found her to be classified into the Administrative Professional 1 or Customer Service Assistant classifications.

FINDINGS OF FACT

The only discrepancy between the Appellants' characterization and the duties that she performed and those of the testimony of her direct supervisor, Ms. Katrina Flory, Administrator in the Office of Information and Technology, was that she did not manage the Learn It Ohio Program, but acted as a liaison or a contact between the agencies and the Learn It Ohio Program and Skill Soft Corporation, to better describe her job tasks and responsibilities.. Therefore, I find as a matter of fact, the Appellant performed the duties about which she testified, with the above noted exception.

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 classification 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.

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.

This Board must also consider the relation between the classification specifications at hand and the 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 the effected parties. *Gordon v. Ohio Department of Administrative Services* (March 31, 1988), Franklin Co. 88AP-0122, unreported, 1988 WL37094.

As previously mentioned, the Appellant, Ms. Mary Cornwell stated that although she is presently classified as a Program Administrator 1, she was seeking to be reclassified to the positions of a Training Program Manager, classification specification number 64656, a Project Manager 1, classification specification number 63381 and/or a Program Administrator 3, classification specification number 63124. Additionally, the classification specification of an Administrative Professional 1, classification specification number 16871 and the classification specification of a Customer Service Assistant, classification specification number 64431, as suggested were also reviewed in seeking a resolution of this matter. However, as was noted by the undersigned the Ohio Department of Administrative Services, through its designee, Ms. Jessica Schuster, an Administrator in DAS's Human Resources Division in the Office of Workplace Administration, and through Ms. Morgan Webb, a Human Management Capital Senior Analyst found that the Appellant was properly classified as a Program Administrator 1, classification specification number 63122. After a thorough review of the above mentioned classification specifications, it is my recommendation that the Appellant was not properly classified as a Program Administrator 1, but should have been reclassified to a Training Program Manager, classification specification number 64656.

The Series Purpose language for the Program Administrator reads for Program Administrator 1 (63122): "at the first level, incumbents relieve superior of non- routine administrative duties and formulates and implements program policy, or does all the proceeding and supervises assigned staff." In the case at bar, the evidence revealed that at no time did the Appellant act for the Administrator or serve as a liaison between the Administrator and subordinates, transmits decisions and

directives and/or represented the Administrator at meetings and conferences and/or formulated and implemented program policy, and she did not assume responsibility and authority in the Administrator's absence, as called for in the job duties in order of importance. Further, the Appellant did not supervise any staff. Thus, the undersigned rejected the classification specification of a Program Administrator 1, as being a best fit for the Appellant herein.

The Series Purpose language for the Program Administrator series reads for Program Administrator 3 (63124): "at the third level, incumbents relieve superior of most difficult administrative duties and formulates and implements program policy or does all the proceeding and supervises assigned staff." Again, in the case at bar, the evidence revealed that at no time did the Appellant act for the Administrator or provide regular work direction to division heads or review the proposals of division heads and/or make recommendations to the Administrator. Moreover, the evidence revealed that the Appellant did not assume responsibility and authority in the Administrator's absence, as called for in the job duties in order of importance, as well. Further, the Appellant did not supervise any staff. Thus, the undersigned rejected the classification specification of a Program Administrator 3, as being a best fit for the Appellant herein.

The Series Purpose language for the Administrative Professional series reads, "the purpose of the administrator professional occupation is perform a variety of clerical, procedural and administrative tasks as principal clerical and administrative support position for supervisor and/or office staff." At the lower level, an Administrative Professional 1, incumbents provide general secretarial assistance through routine administrative tasks and/or provide secretarial assistance requiring training in technical terminology and/or serve as a lead worker over office support staff. While the evidence in this case revealed that the Appellant did provide general secretarial assistance at times, she did not serve as a lead worker over any office support staff, and most importantly this classification specification understates the amount of work and/or responsibilities this individual performs. Wherefore, the undersigned Administrative Law Judge rejected this classification specification as not thoroughly depicting the Appellant's job duties or being the "best fit" for the Appellant herein.

After reviewing the testimony of Ms. Cornwell with regard to her job tasks and/or responsibilities it became apparent the classification specification of an Customer Service Assistant 1's classification specification it was not the most

appropriate fit or "best fit" for the Appellant, as well. When reviewing the classification specification of an Customer Service Assistant 1's class concept it revealed that an incumbent holding that position provides basic/routine information as front/main desk receptionist or interview callers to obtain and record pertinent information in computer concerning alleged violations of law or conduct search of hardcopy and/or computerized records for verification or status of requested information. Additionally, as called for in the job duties in order of importance one holding this position is to provide basic/routine information to and resolve basic/routine complaints from internal and external customers in response to inquiries, requests and/or complaints received in writing and/or by telephone, e-mail and/or in person. Again, this classification specification understates the amount of work and/or responsibilities this individual performs. Thus, the undersigned Administrative Law Judge rejected this classification specification as not depicting the entirety of the Appellant's job duties.

Next, the Project Manager 1 classification specification was reviewed to see whether that classification "best fit" the Appellant's job duties and/or tasks. The Series Purpose language for the Project Manager Classification series reads, "the purpose of the project manager occupation is to manage and/or direct the development and implementation of technical and/or specialized projects to assist management and planning and controlling the various aspects of assigned project(s)." Moreover, in the glossary of the Project Manager Classification series, the term "project" is defined as a temporary stand-alone assignment that has a definite beginning and end and is undertaken to create a unique product or service. When reviewing the classification specification of a Project Manager 1, the job duties in order of importance states that one holding this position manages assigned projects, with or without subprojects, that covers all phases of project management, along with defining the project requirements, quality standards and timelines and determines and evaluates risks that may affect the project. The evidence that was put forth in this instant hearing clearly showed that the Appellant did make project presentations to educate/train end-users on the Learn It Ohio Program, but that she did not define the project requirements, quality standards and timelines and/or determines and evaluates risks that may affect the project. Moreover, the evidence revealed that the Appellant does not supervise and/or direct professional, technical and/or administrative/clerical staff as called for in the classification specification, as well. Thus, the Project Manager 1 classification specification was rejected by the undersigned as not accurately reflecting what duties and/or responsibilities that the Appellant performed in her job.

Lastly, the Training Program Manager classification specification was reviewed to see whether that classification best fit the Appellant's job duties and/or responsibilities. The Series Purpose language for the Training Program Manager classification series reads, "the purpose of the trainer occupation is to develop and/or present instructional programs for state employees." Further, at the forth level, which the Training Program Manager classification is located; incumbents develop, implement and administer assigned human resources and organizational development program (e.g... Professional Development for Exempt State Employees). In this case, the evidence revealed that while the Appellant did not develop the Skill Soft program within the Learn It Ohio Program, but she did implement and administer the Learn It Ohio Program to approximately 160 different Agencies and/or Boards and Commissions throughout the state of Ohio while utilizing the Exempt Professional Developmental Fund. Further, the evidence also revealed the Appellant implemented and administered updates of the E-Learning Program for all state of Ohio employees which contains over 3000 courses, 9000 books and 1300 videos. The evidence showed that the Appellant maintained the database of the Skill Soft software and that she coordinates and troubleshoots issues for all state employees and the agency contacts. Further, when questioned, the witness testified that along with tracking statistics, analysis and evaluation of the program she also manages the relationship between the state of Ohio and the Skill Soft Corporation, along with the learning strategist to put together a better product.

There were questions regarding whether the Appellant "managed" matters before her or not. Thus, the undersigned sought guidance as to what the common meaning of the term "manage" meant.

Ohio Revised Code Chapter 124 does not define "manage". However, the American Heritage Dictionary does define "manage" to mean:

> ... defined as to direct or control the use of, to exert control over, to make submissive to one's authority, discipline or persuasion, to direct or administer (a business for example) to direct, supervise or carry on business or other affairs.. American Heritage Dictionary, at page 761 (Second College Edition)

The evidence at the hearing revealed that the Appellant most likely did not "manage" as defined above, as she worked in conjunction with the learning strategist from Skill Soft Corporation and between the agency contacts and/or employees. Thus, as was found in the findings, the Appellant acted as a liaison or a contact between the agencies and the Learn It Ohio Program and Skill Soft Corporation, as she administered and implemented the Learn It Ohio Program. While the above noted classification is not a perfect match of the Appellant's duties, as all of the classifications reviewed in the case at hand have discrepancies to some sort, this classification seemed to be the "best fit".

Therefore, after reviewing the testimonial and documentary evidence with regard to the Appellant's job tasks and/or responsibilities it became apparent when reviewing the classification specification of the Training Program Manager position, served as the most appropriate or "best fit" position for the Appellant.

RECOMMENDATION

Therefore, it is my respectful **RECOMMENDATION** that the Appellant, Ms. Mary Cornwell should be **RECLASSIFIED** to the position of a Training Program Manager, classification specification number 64656, following the first pay period after she sent in her audit request.

Christopher R. Young
Administrative Law Judge

CRY: