

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

Trinka Mount,

*Appellant,*

v.

Case Nos. 2013-REC-09-0235  
2013-MIS-09-0236

Environmental Protection Agency, and  
Department of Administrative Services, Human Resources Division,

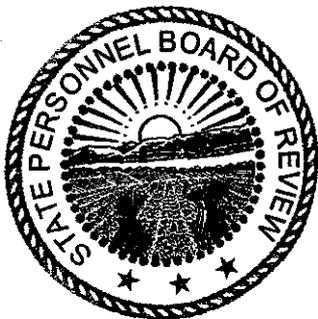
*Appellees,*

**ORDER**

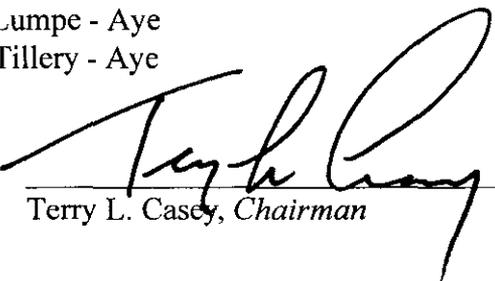
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 Appellant's position be **RECLASSIFIED** to that of Environmental Manager, class number 85866, effective the first date of the first pay period following Appellee's receipt of the request for job audit.



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 22, 2014.

  
\_\_\_\_\_  
*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**

Trinka Mount,

Case No. 2013-REC-09-0235

*Appellant*

v.

August 20, 2014

Environmental Protection Agency,

and

Department of Administrative Services,  
Human Resource Division, Compensation  
and Workforce Planning,

*Appellees*

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 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 Appellant's position was properly classified as Environmental Supervisor, classification number 85865. A record hearing was held in the matter on February 27, 2014. Appellant was present at record hearing and appeared *pro se*. Appellee Environmental Protection Agency (EPA) was present through its Assistant Chief of the Division of Surface Water, Brian Hall, who is Appellant's interim supervisor. Appellee DAS was present at record hearing through its designee, Human Capital Management (HCM) Senior Analyst Laura Sutherland.

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

**CONSOLIDATED STATEMENT OF THE CASE  
AND 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 in July 2013. She completed an audit questionnaire outlining her duties and responsibilities as part of the audit process and submitted it to the Department of Administrative Services (DAS), on or about July 29, 2013. Appellant was notified on or about August 6, 2013, of DAS' determination that her position was properly classified as Environmental Supervisor, classification number 85865, which represented no change in the classification of her position.

Appellant has held the position of Environmental Supervisor for approximately 15 years. She reports directly to the Division Chief position, which was vacant at record hearing; in the interim, her immediate supervisor is Brian Hall, Assistant Chief of the Surface Water Division. Appellant serves as head of Ohio's Total Maximum Daily Load (TMDL) program and the Lake Erie program.

There is no dispute with regard to the job duties performed by Appellant. Appellant manages the TMDL program. She plans and develops the state's water quality report and list of impaired waters. Appellant develops the TMDL program's goals, objectives and priorities; she also develops program standards and policies, and ensures that program operations efficiently and lawfully accomplish those standards. Appellant evaluates program performance and develops and institutes changes as needed to ensure continuous improvement and efficiency of the program.

Appellant collaborates with other managers to develop solutions to cross-program issues. Because of the matrix structure of the TMDL program, Appellant directs the work of, but does not directly supervise, a number of Environmental Supervisors who have responsibilities related to the TMDL program. She is responsible for establishing a program work schedule, as well as developing program work plans and budgets. Appellant directly supervises two employees whose positions are classified as Environmental Specialists 2; those employees are assigned to the TMDL program and work from Appellee's Central Office. The duties

performed by Appellant in support of the TMDL program occupy approximately sixty percent of her average working time.

Appellant is also responsible for managing Appellee's Lake Erie Program, which accounts for the remaining forty percent of her average working time. She prepares grant applications to procure federal funding for program objectives and oversees grants to local stakeholders. Appellant develops goals, objectives and priorities for the Lake Erie program, develops program standards and policies, and ensures that the program's operations accomplish those standards. She evaluates program performance and develops and institutes changes as needed to ensure continuous improvement and efficiency of the program. Appellant prepares annual work plans and budgets for the Lake Erie program and manages staff. She directly supervises one employee in Central Office classified as an Environmental Specialist 2, who is involved with grant management for the program, and directs the work of the Lake Erie staff in the two northern districts through their supervisors and managers.

With regard to both programs, Appellant advises the Division Chief on related matters and represents the agency at national and regional conferences, technical committees and public meetings.

### **CONCLUSIONS OF LAW**

Pursuant to O.R.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 the review of Appellant's job duties, the Environmental Specialist classification series was considered, specifically the class titles for Environmental Supervisor, class number 85865, and Environmental Manager, class number 85866.

The class concept for the Environmental Supervisor classification, which is the classification presently assigned to Appellant's position, provides that an incumbent employee must:

... develop, coordinate & implement programs within designated office, division or bureau & supervise environmental specialists &/or other professional/technical staff.

The class concept for the Environmental Manager classification, which is the classification Appellant believes more accurately describes her job duties, provides that an incumbent employee must:

... plan & manage program activities within assigned office or division & supervise all subordinate environmental supervisors in assigned office or division.

A review of the illustrative job duties section of each classification indicates that the primary difference between the Environmental Supervisor class and the Environmental Manager class is the scope of the duties performed by an incumbent employee. An Environmental Supervisor is responsible for developing and implementing programs, while an Environmental Manager establishes a program's goals, and plans and manages the operation of programs. An Environmental Manager has a broader scope of responsibility for his or her assigned programs. Testimony established that Appellant develops the TMDL program's goals, objectives, priorities, standards and policies and ensures that program operations accomplish those standards. She evaluates program performance and develops and makes necessary changes to ensure the program's improvement and efficiency. Appellant performs similar duties with regard to the Lake Erie program (develops program goals, objectives, priorities, standards and policies, and ensures that program operations accomplish those standards).

I find that the job duties performed by Appellant are of the broad scope intended by the Environmental Manager classification. Appellant reports directly to the Division Chief of Appellee's Surface Water Division. As noted by Appellant, TMDL program activities are carried out within a matrix structure, rather than a linear chain of command that may be employed in other agencies utilizing the Environmental Specialist classification series. Appellant observed that although she directs the work of a number of Environmental Supervisors in conjunction with the TMDL program, she does not directly supervise them because they do not work from the same physical location that she does. The class concept for the Environmental Manager classification requires an incumbent to "supervise all subordinate environmental supervisors in assigned office or division."

Although Appellee DAS contends that Appellant's failure to directly supervise any positions classified as Environmental Supervisors prevents her position from being placed in the Environmental Manager classification, I find that an examination of the record as a whole allows for a more expansive interpretation of the language contained in the class concept. The parties do not dispute that Appellant serves as the head of the TMDL and Lake Erie programs. Testimony and evidence demonstrate that Appellant has the authority to direct the work of Environmental Supervisors located in other offices who are performing duties on behalf of those programs. Accordingly, I find that where an employee is otherwise performing the duties of an Environmental Manager but does not directly supervise subordinate Environmental Supervisors, the employee may properly be placed in the Environmental Manager classification. As noted above, in determining the most appropriate classification for an employee's position, this Board may consider not only the duties performed but other relevant facts submitted by the parties. A review of the organizational chart for Appellee's Surface Water Division submitted by Appellant indicates that reclassifying Appellant's position to Environmental Manager would be consistent with the existing structure of the Division.

Therefore, I find that the classification which most accurately reflects the duties performed by Appellant is that of Environmental Manager, class number 85866. I respectfully **RECOMMEND** that her position be **RECLASSIFIED**, effective the first date of the first pay period following Appellee's receipt of the request for job audit.

  
Jeannette E. Gunn  
Administrative Law Judge