

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

Philip E. Anderson,

Appellant,

v.

Case No. 2013-REC-01-0018

Department of Job and Family Services 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.

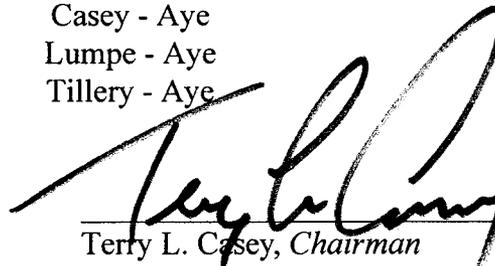
After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the findings of the Administrative Law Judge but must modify the Recommendation of the Administrative Law Judge for the reasons set forth, herein. Following Oral Argument in this matter presented on the record before the Full Board on September 4, 2013, the Board finds that Appellee Department of Administrative Services' Classification Plan Review Determination (*i.e.* that Appellant's position should be reclassified to Inventory Control Specialist Supervisor, 64555) should be MODIFIED. Instead, we find that Appellant's position should be RECLASSIFIED to Program Administrator 2, 63123, effective January 13, 2013. This is because Appellant provides program direction by relieving his superior of a variety of difficult administrative duties, formulates and implements program policy, and supervises assigned staff. Since the Pay Range for Program Administrator 2 (*i.e.* Pay Range 12) falls below the Pay Range of Appellant's former Classification of Management Analyst Supervisor 2 (*i.e.* Pay Range 14), Appellant is to remain in Step X, pursuant to R.C. 124.14 (A).

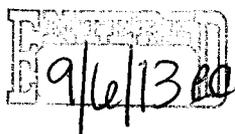
Wherefore, it is hereby **ORDERED** that Appellant's position be **RECLASSIFIED** to Program Administrator 2, 63123, effective January 13, 2013, pursuant to R.C. 124.03 and R.C. 124.14.

Casey - Aye

Lumpe - Aye

Tillery - Aye


Terry L. Casey, *Chairman*


9/6/13

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 06 2013.

Eric E. Com

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**

PHILIP E. ANDERSON,

Case No. 13-REC-01-0018

Appellant

v.

May 28, 2013

DEPARTMENT OF JOB AND FAMILY SERVICES 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 at pre-hearing on February 26, 2013 and at record hearing on May 9, 2013. Present at the hearing was Appellant, who appeared *pro se*. Appellee Department of Job and Family Services (DJFS) was present through its designee, Janet Kaplan, Intermittent Program Administrator (P.A.) 3, and was represented by Nicole S. Moss, Senior Staff Attorney. Appellee Department of Administrative Services (DAS) was present through its designee, Ashley Hughes, Human Capital Management (HCM) Manager for the Classification and Compensation Unit (Class/Comp), and was represented by Eric C. Harrell, Chief Counsel.

This cause comes on due to Appellant's January 18, 2013 timely filing of an appeal from the reclassification of his position from Management Analyst Supervisor 2 (63216) (Pay Range 14) to Inventory Control Specialist Supervisor (ICSS) (64555) (Pay Range 11), effective with the payroll period beginning on January 13, 2013. This Class Plan Review Determination came about following DAS' deletion of Appellant's former Class of Management Analyst Supervisor 2 from the State Class Plan. Because this downgrade would otherwise result in a diminution of Appellant's pay, Appellant was placed in "Step X", pursuant to R.C. 124.14 (A).

Appellant believes either the Classification of P.A. 3 (63124) (Pay Range 14) or the Classification of Administrative Officer (AO) 2 (63132) (Pay Range 14) would better fit with Appellant's duties.

At hearing, Appellees waived their respective opportunity to offer oral or written closing statements. Appellant wished to file a written closing statement and timely filed same on May 20, 2013. The instant record was then closed.

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, in accordance with O.A.C.124-7-03 ("Procedure in reclassification appeals").

First to testify was **Philip E. Anderson, Appellant**, whose position is currently classified as Inventory Control Specialist Supervisor.

Next to testify was **James Lowe**, who held a position classified as Business Operations Manager 2, prior to his November 2012 retirement from State service. Mr. Lowe served as Appellant's supervisor for much of the pertinent Classification Review period.

Next to testify was **Ashley Hughes**, HCM Manager and head of Class/Comp for DAS.

Last to testify was **Appellant**, who offered some additional testimony as the final witness in the hearing.

Appellant began his testimony by noting that he supervises two subordinates, whose positions respectively are classified as Management Analyst and Inventory Control Specialist. Both of these positions are in the bargaining unit. The title of Appellant's work unit is Manager of Assets and Fleet, Appellant stated.

Appellant works in the Information Management section. He reported to James Lowe, a Business Operations Manager (BOM) 2, until Mr. Lowe's retirement effective November 1, 2012. Subsequently, Appellant reported to Nicholas Linn, who is serving in a Temporary Working Level since Mr. Lowe's retirement. Appellant's supervisor reports to Jeffrey Hissem, a BOM 3, who serves as Bureau Chief of Business Services. Mr. Hissem reports to Carolyn Borden-Collins, the Deputy Director of the Office of Employee and Business Services.

Appellant indicated that his duties can be broken up into three large groups.

First, Appellant testified, his duties call for maintaining a record of the agency's assets in accordance with the procedures established by DAS and OBM. This, he stated, is to ensure that DJFS has proper financial reporting during annual and biennial review. In this capacity, Appellant heavily utilized the "AM" (Asset Management") module of the State's ubiquitous OAKS ERP system.

Secondly, Appellant indicated, his duties entail overseeing the operation of the agency fleet, consisting of about 90 vehicles, with about six owned outright by DJFS. He stated that DJFS is a managed agency through DAS and that, as such, DJFS must properly report to DAS. Appellant's unit also checks to ensure that DJFS' drivers, who use either agency pool vehicles or individually-assigned vehicles, are properly licensed.

A large component of this duty, he declared, is Appellant's administration of the Mileage Reimbursement Reduction Program (MRRP). This is a program or program function under which the State seeks to limit reimbursement to State employees who utilize their own vehicles for agency travel. This is accomplished by responsibly maximizing the use of pooled, or assigned, vehicles for the needs of those drivers and by utilizing centrally located vehicles to serve one or more of DJFS' warehouses.

Thirdly, he averred, his duties entail providing support of initiatives in Information Management. An example of this, Appellant offered, involved the agency's attempt to go paperless in the Office of Workforce Development. Appellant was also involved in the agency-wide review and update of records retention schedules. Appellant also indicated that he is now involved in the set-up for the soon-to-be independent Ohio Department of Medicaid, effective July 1, 2013.

All parties appear to agree that Appellant formulates and implements program policy for the asset management program or function and for the fleet program or function. However, while not a requirement, it does not appear that Appellant possesses final approval authority for those policies.

Appellant takes the position that inventory control and asset management are far different operations that only intersect. Appellant sees asset management as

more of a financial accounting and financial control operation, tracking and reporting the value and ownership of assets, including depreciation, throughout the life of the asset. Indeed, Appellant's former supervisor, James Lowe, indicated that the only inventory control personnel with whom Appellant regularly interacts are those who are, themselves, in charge of inventory for the various components of DJFS.

Appellant sees inventory control as more related to the functions of counting what is in stock, what needs to be ordered or distributed, what needs to be inventoried, and what needs to be disposed or salvaged. Appellant averred that he cannot order, cannot make determinations to purchase, cannot salvage, and cannot dispose, often due to fiscal controls put in place by OBM including those to avoid conflicts of interest.

Appellant opined that reclassifying his position to Inventory Control Specialist Supervisor pigeon holes him and would make it difficult for him to lateral to another agency. This is because, according to Appellant, only about 10 percent of his duties involve ICSS duties.

DAS, in the person of Ashley Hughes, Head of DAS' Class/Comp Unit, sees the term "asset management" more as a more updated or evolved denomination for "inventory control". She offered the example of how "personnel" became "human resources" and, more recently, has become "human capital management".

Ms. Hughes also offered that DAS chose to utilize a "split position" and a "blended Position Description" for Appellant's position. This is because, she averred, two Specifications cover large components of Appellant's duties; well in excess of the 20 percent required under O.A.C. 123:1-7-15 (the "20 percent rule"). These two Classes are the afore-mentioned Inventory Control Specialist Supervisor Class (Pay Range 11) and the Motor Fleet Coordinator Supervisor (MFCS) Class (52145) (Pay Range 10).

Ms. Hughes stated that, because both cover large swaths of Appellant's duties, either would be acceptable. However, as permitted by the 20 percent rule and to ensure compliance with applicable case law, DAS chose to reclassify Appellant's position to ICSS, which is assigned to the higher of the two Pay Ranges (*i.e.* Pay Range 11), she declared. This was especially so because Appellant does supervise an Inventory Control Specialist, Ms. Hughes reaffirmed.

Ms. Hughes offered that Appellant would not be eligible for the Administrative Officer 2 (63132) Class (Pay Range 14), which Appellant offered as an alternative to ICCS. This is because Appellant does not supervise a "major" section.

According to the Glossary (contained within the Administrative Officer Series), a "section" must contain at least two units, each headed by a supervisor who supervises at least two subordinates. Since Appellant supervises two subordinates and neither is a supervisor, Appellant's position would not qualify for the AO 2 Class, Ms. Hughes declared.

Ms. Hughes also offered that Appellant's position would not qualify for the Program Administrator 3 Class; since with the recent rollout of this Specification, DAS mandated that the incumbent provide "program direction". Ms. Hughes further offered that Appellant does not provide program direction but does provide "program function direction".

This is the case, Ms. Hughes indicated, because there are already specific Specifications that encompass Appellant's work (*i.e.* ICSS and MFCS), covering the functional areas of Appellant's duties. Accordingly, it would be inappropriate to place Appellant in the PA 3 Class since several other more accurate Classes already exist to better describe the bulk of Appellant's work duties, she asserted.

Further, she stated, Appellant's Position Description (Appellee's Exhibit A (4) indicates, at Rank 1 (50 percent) that Appellant serves as the agency manager over business service functions for the Office of Employee and Business Services and responsibly implements policy as it relates to business functions including fleet and asset management; analyzes work processes and procedures in order to make recommendations on process improvement; plans and manages inventory for the agency and/or office; and utilizes various tracking tools as well as the OAKS Asset Management Module. Additionally, she averred, Rank 2 (45 percent) includes implementation of organizational improvements in the agency's fleet and asset management operations and provides technical direction to agency personnel utilizing fleet service and in reporting of monthly vehicle mileage usage.

Based on the testimony presented and evidence admitted at hearing and upon Appellant's written closing statement, I make the following Findings:

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

Next I find as accurate and so adopt the duties outlined in Appellant's Position Description and in his testimony at hearing.

CONCLUSIONS OF LAW

This case presents this Board with the question of whether an employee who performs the duties of several Classes, including Motor Fleet Coordinator Supervisor and Inventory Control Specialist Supervisor (Appellant's current Class), should have his Classification Plan Review Determination affirmed, when Appellant asserts his position could also be reclassified to Administrative Officer 2 or Program Administrator 3? Based on the findings set forth, above, and for the reasons set forth, below, we must answer that Appellant's position appears to have been properly re-classified to ICSS (Pay Range 11) (Step X). Accordingly, this Board should affirm DAS' instant Class Plan Review Determination.

The Class Concept for the Inventory Control Specialist Supervisor (64555) Class reads:

The supervisory class works under administrative supervision & requires thorough knowledge of inventory control, agency policies & procedures & state &/or federal regulations governing inventory control and salvage & surplus disposal, electronic data processing as applied to inventory control computer systems & supervisory principles/techniques in order to develop , implement & enforce new &/or improved inventory control & salvage & surplus disposal systems for state agency & supervise staff.

The Series Purpose language for the Administrative Officer Series reads, for Administrative Officer 2 ((63132): "At the second level, incumbents analyze & develop policies & procedures & coordinate activities of major division, section or department of state agency & supervise staff." (emphasis added)

The Class Concept for the Program Administrator 3 (63124) Class reads:

The second administrative level class works under administrative supervision & requires extensive knowledge of management principles/techniques, supervisory principles/techniques & agency policies & procedures regarding program activities of unit, section, division or bureau in order to provide program direction by acting for superior & by relieving superior of most difficult administrative duties **& formulate** & implement program policy, or do all of preceding & supervise assigned staff. (emphasis added)

While Appellant does not perform all of the contemplated duties for the Inventory Control Specialist Supervisor, it appears he does sufficient of those duties to qualify his position for the ICSS Class, particularly when he would merely need to perform the duties of the ICSS Class Concept for 20 percent of his time (Please see O.A.C. 123:1-7-15). Further, Appellant does supervise an Inventory Control Specialist. Finally, it should be noted that the State's Class Plan, at this point in time, does not appear to distinguish between "inventory control" and "asset management", and, accordingly, neither can this Board. (Please see R.C. 124.03 (A) (1), Paragraph 2.) Thus, the ICSS Class would provide an adequate fit with Appellant's position and duties.

As an alternative to the ICSS Class, Appellant has suggested both the Administrative Officer 2 Class and the Program Administrator 3 Class.

The AO 2 Series Purpose language limits the applicability of this Class to a major division, section, or department of a state agency. Based on the Glossary terms set forth in the AO Class Series discussed, above, it appears Appellant does not perform this function, in that Appellant supervises a unit in a section and not a major section itself.

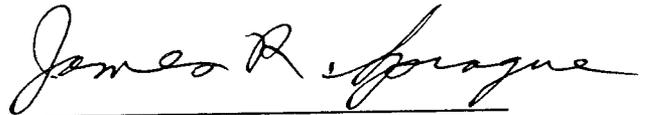
The Program Administrator 3 Class Concept calls for the incumbent to, among other things, formulate program policy. While a program is not defined in the PA Class Series, DAS has asserted that this Class Series underwent a re-write expressly to ensure that all incumbents assigned to this Series must actually promulgate program policy. The record does generally support the finding, set forth above, that Appellant formulates and implements policy. However, by DAS' logic, Appellant does not formulate program policy but promulgates policy for a function or functional area.

DAS argues that if a Specification exists in the Class Plan that more specifically describes the duties of a position, then it is this Class that should be utilized. It is true that DAS could have included specific language in this Series to memorialize that viewpoint.

Still, DAS' argument has merit. This is because a myriad of positions that could otherwise be classified with specific job-related Specifications might end up classified as PA 3, which would diminish not only the utility of the PA 3 Class but also the integrity of the State's Class Plan. Accordingly, the PA 3 Class does not appear to be appropriate for Appellant's current position.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the **CLASS PLAN REVIEW DETERMINATION** of the Department of Administrative Services that Appellant's position be re-classified to Inventory Control Specialist Supervisor (64555) and that Appellant remain in Step X in accordance with pertinent law, pursuant to R.C. 124.03 and R.C. 124.14.



JAMES R. SPRAGUE
Administrative Law Judge

JRS: