STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Christine H. Resch,

Appellant,

v. Case No. 2013-REC-02-0040

Department of Job and Family Services and
Department of Administrative Services, Human Resource Division,

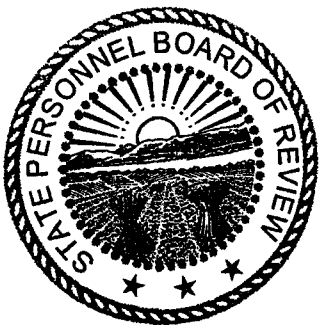
Appellees.

ORDER

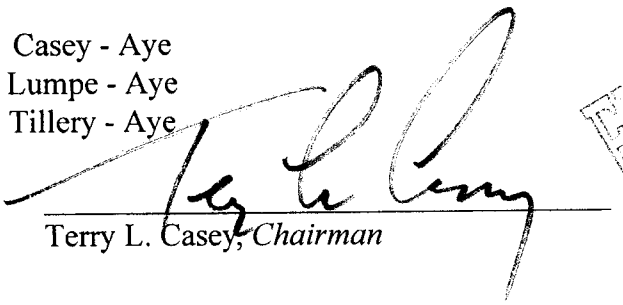
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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. It is noted that this case was heard together with Case Nos. 13-REC-01-0031 and 13-REC-01-0032 (which included Appellant Linda Kemper and the two above-named Appellees). Subsequent to the hearing that considered all three of those cases (*i.e.* 13-REC-01-0031, -0032, and -0040), the assigned Administrative Law Judge reviewed these matters and determined that the assigned post-hearing statements to be submitted by the parties needed to be supplemented. As a result, the Administrative Law Judge issued a Procedural Order that instructed the parties to include the requested analysis, extended the maximum length of the statements, and set a new due date. After Appellees and Appellant Kemper submitted their respective post-hearing statements, the Administrative Law Judge inadvertently released the Report and Recommendation before Appellant Appellant Resch submitted her post-hearing statement, which we note was indeed filed on or before the new filing deadline set for same. We also note that Appellant Resch's post-hearing statement and objections have been expressly and duly considered as part of the entirety of the instant record reviewed by this Board. Because the Board has specifically focused its inquiry to include Appellant Resch's post-hearing statement, the error of releasing the Report and Recommendation after Appellees and Appellant Kemper filed their respective post-hearing statements, but before Appellant Resch filed her post-hearing statement, has been rendered harmless by the Board's careful consideration of Appellant Resch's statement.

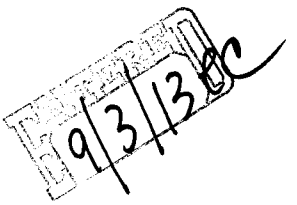
Wherefore, it is hereby **ORDERED** that the Class Plan Review Determination of the Department of Administrative Services that Appellant Resch's position was properly reclassified to Purchasing Supervisor (64525) (Pay Range 11) be **AFFIRMED** and that Appellant Resch was, as a result, properly placed in Step X, pursuant to Ohio Revised Code Sections 124.03 and 124.14.



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 03, 2013.

Eric E. Corn
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

LINDA KEMPER,

and

CHRISTINE RESCH

Appellants

v.

DEPARTMENT OF JOB AND FAMILY SERVICES

and

DEPARTMENT OF ADMINISTRATIVE SERVICES,

Appellees

Case Nos. 13-REC-01-0031
13-RED-01-0032
13-REC-02-0040

June 11, 2013

JAMES R. SPRAGUE
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

These cases came to be heard at hearing on April 22, 2013. On February 26, 2013, a pre-hearing was also conducted concerning these cases. Present at hearing were Appellants, Linda Kemper and Christine Resch, who appeared *pro se*.

Appellee Department of Job and Family Services (DJFS) was present through its designee, Human Capital Management (HCM) Manager Nancy Janesco-Kocarek, and was represented by Nicole S. Moss, Senior Staff Attorney. Also present from DJFS was Lynette M. Alexander, Deputy Legal Counsel, Janet Kaplan, Program Administrator 3, and Jay R. Easterling, Deputy Director (DD) of the Office of Contracts and Acquisition, who also serves as the supervisor for both Appellants, herein.

Appellee Department of Administrative Services (DAS) was present through its designee, Chief Counsel Eric C. Harrell, who also represented DAS at hearing. Also present from DAS was Ashley E. Hughes, J.D., SPHR, who heads DAS'

Classification and Compensation (Class/Comp) Group within DAS' Human Resources Division (HRD).

These causes came on due to Appellants' separate timely filing of appeals following a DAS Class Plan Review. As a result of that Review, the respective position of each Appellant was re-classified from Management Analyst Supervisor (MAS) 2 (63216) (Pay Range 14) to Purchasing Supervisor (PS) (64525) (Pay Range 11).

These Reviews were initially prompted by DAS' decision to delete the Management Analyst Supervisor 1 (63215) and the Management Analyst Supervisor 2 (63216) Classes from the State of Ohio's Class Plan. Appellants' respective positions were thus reclassified effective with the Pay Period beginning January 13, 2013. Since those actions would have resulted in a diminution of the pay of Appellant Kemper and Appellant Resch, both Appellants were placed in Step X pursuant to R.C. 124.14 (A) (2). Thus, as of today's date, neither Appellant has received a reduction in pay as a result of the instant reclassifications.

Appellants respectively believe that their positions should have been reclassified to Business Operations Manager (BOM) 2 (63392) (Pay Range 15) or, as a secondary choice, Program Administrator (PA) 3 (63124) (Pay Range 14). DJFS initially concurred with Appellants' assertions regarding reclassifying Appellants' positions to Program Administrator 3. Yet, DJFS ultimately concurred with DAS' Class Plan Review Determination for each of these two positions (*i.e.* to reclassify Appellants' respective positions to Purchasing Supervisor (64525)).

By agreement of the parties, simultaneous post hearing closing arguments were to be filed on or before May 22, 2013. Further, on May 3, 2013, this Board issued a Procedural Order/Submission Enlargement and Supplementation of the Record concerning specific questions posed to the parties. Thereafter on June 5, 2013, the parties timely supplemented the records with their respective responses and/or replies to the Procedural Order, as contained in their respective closing statements. The instant records were then closed.

Jurisdiction over the subject matter of these appeals was established pursuant to R.C. 124.03 and R.C. 124.14.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

At hearing, four witnesses testified.

First to testify was **Appellant Linda Kemper**, whose position is currently classified as Purchasing Supervisor (64525) in Step X.

Next to testify was **Appellant Christine Resch**, whose position is also currently classified as Purchasing Supervisor (64525) in Step X.

Next to testify was **Jay R. Easterling**, DJFS Deputy Director of the Office of Contracts and Acquisition, who serves as supervisor for both Appellant Kemper and Appellant Resch and who has done so during all time periods pertinent to the instant appeals.

Last to testify was **Ashley E. Hughes**, J.D., SPHR, who heads DAS/HRD's Class/Comp Group and who testified concerning the Class Plan Review process as it relates to the three instant appeals.

To put these matters into some perspective, DD Easterling's Office is comprised of three units.

Appellant Resch oversees the first office ("the Competitive Planning and Procurement Unit") – the front end or first step in DJFS purchases. This unit oversees competitive purchasing, much of which involves DJFS' non-DAS administered procurement, principally for services not involving IT, supplies, or materials.

There is a second office under DD Easterling that drafts contracts for the agency, with which office Appellant Resch works closely.

Appellant Kemper oversees the third office ("the Office of Contracts and Administration") – the back end or last step in DJFS purchases. This unit coordinates all purchasing including EPay, Requests For Purchase, and all contracts to purchase which come through Purchase Orders and which must be approved by DD Easterling.

The records reflect that there are only three procurement officers listed for the entirety of the Ohio Department of Job and Family Services: Jay Easterling; Linda Kemper; and Christine Resch.

Appellant Kemper indicated that she serves under DD Easterling in the Office of Contracts and Acquisitions. DD Easterling reports to Lou George, DJFS Chief Counsel. Appellant Kemper stated that she supervises two Purchasing Coordinators.

Her principal function is to serve as one of only three procurement officers designated for the all of DJFS. She also offered that she works more closely with section chiefs, the agency Fiscal Office, and other agency internal offices. She noted that she does not edit any requisitions, since her staff handles that function. She also stated that she tries to make sure that DJFS is in compliance with all pertinent federal, state, and local purchasing laws; so that the agency avoids violations of same.

Appellant Kemper also indicated that she works daily and weekly with the chief of OJDS' Fiscal Office, Fiscal Officer 4 Yvonne Gore, and her staff, as well as Assistant Deputy Director (DD 5) of Fiscal Services, Janet Histed, and also Shared Services.

Appellant Kemper indicated that she opens all requisitions and assigns them in accordance with the needs of the office. She indicated the range involved for those is from $23.00 to millions of dollars. She reviews them regarding the ramifications of not utilizing a contract as well as reviews them for accuracy. Her review parameters include questions as to whether the purchase makes sense to the program involved and to the agency's mission, as well as whether the agency could successfully defend the request under public scrutiny. She averred that she submits same to DD Easterling for final approval and if he has questions, which he does, she satisfactorily answers those questions. She offered that by the time the proposal action gets to DD Easterling, it is pretty much ready for approval.

She noted that, if the request is "hot", often she has already been notified of that status. This is especially true, she stated, for amounts involving greater than one million dollars that might, for example, come out of the Office of Information Services (OIS). Since these are usually urgent, she does an expedited review to fulfill her assignment and to ensure that that the requested purchase is really

needed. This requires her to have knowledge of concerning the functions of OIS, she confirmed.

She also offered that she must have also have an understanding of the positions and policies of the Office of Information Technology (OIT), particularly concerning the Release and Permit process, which necessitates a trip to the Controlling Board by DD Easterling for requested amounts greater than $25,000. Indeed, the records reflect that, immediately following the conclusion of the instant hearing, DD Easterling was to appear before the Controlling Board regarding proposed DJFS purchases.

She indicated her unit is particularly busy during the end of the Fiscal Year or end of the Biennium. She must understand OBM processes and the requisite OBM cutoffs, as she works with and coordinates with the Fiscal Office to ensure the pertinent time frames are met. She also indicated that she is familiar with activities that draw the attention of the Governor, for instance those impacting on the Governor's Office of Faith-Based and Community Initiatives (GOFBCI), which utilizes DJFS as its purchasing agent. She averred that she is responsible for or is involved with the policies dealing with food purchases, payment cards, and procurement, along with Appellant Resch and DD Easterling and others.

Joint Exhibit D. (Kemper) at Page D. states:

> Ms. Kemper has responsibility for formulating agency policy for the ODJFS Internal Policy and Procedure Manual for IPP.6011. ODJFS Purchase of Goods and Services and she supervises two full-time employees. Ms. Kemper serves as the Purchasing Manager for ODJFS and has responsibility for monitoring agency expenditures using the Ohio Administrative Knowledge System (OAKS) and determines if expenses are valid and in line with the agency's mission and goals.

Appellant Kemper indicated that she holds a Bachelor's degree in Business Administration, a Bachelor's degree in Human Resource Management, and an Associate's degree in Banking and Finance.

Appellant Resch confirmed that she is in charge of all of DJFS' competitive procurement for services.

She also confirmed that she serves under DD Easterling and that she supervises four Management Analyst Supervisor 1s.

She noted that the DAS Handbook identifies situations where an agency such as DJFS conducts its own procurement and this is what her unit is responsible for. She averred that for the current Biennium, her unit facilitated more than $118 million dollars of requested expenditures before the Controlling Board. She stated these did not include a number of potential acquisitions of services that came directly from the Catalog of Domestic Assistance and the Access and Visitation Program Grant.

Her office essentially established the procedures so that ODJFS competitive procurement decisions are supportable as fair and impartial. Many of the services that DJFS acquires are mandated by federal policy and DJFS is tasked to effectuate that policy at the state level and to effectuate the awarding and tracking of funds to fulfill that mission.

Appellant Resch offered as an example a situation where the Office of Child Support had a funding source that was insufficient to cover the needs of every county in Ohio concerning a particular program. Thus, she explained, her unit established the procedures and ran a competitive bid process where funds were awarded to the counties with the best plans to carry out the goals and mandates of the funding requirements.

Appellant Resch offered additional insight into the three step process directed by DD Easterlng. She explained that her unit is the Request for Purchase procurement planning unit. There is a contract drafting unit that assists with drafting contracts for the Controlling Board. Appellant Kemper oversees the third unit, the purchasing unit, which works with State Accounting to develop Purchase Orders for DJFS. As with Appellant Kemper, Appellant Resch offered that she does not enter requisitions.

She further offered that, should there be a need for an external vendor, work comes to her section from the Unemployment Compensation Review Commission, the GOFBCI, the Department of Medicaid, and various other offices and programs, all of whom use DJFS as the fiscal agent.

Appellant Resch and her unit must produce a competitive tool that meets the needs of the funding source and also fulfills the mission of the pertinent programmatic unit that is being addressed or enhanced. Thus, Appellant Resch must have subject matter knowledge of the various programs that come before her unit. She indicated that her unit to some degree serves as the consultant to the program areas and adds their best practices/structures to match up with the program areas' program needs.

She indicated her unit facilitates selecting the right kinds of vendors with the appropriate credentials based on the items that are most important to the program. As such, she offered, she must be conversant with and ensure compliance with federal requirements and state standards, which sometimes diverge from the federal mandates. This includes verifications that bidding vendors are not debarred from federal purchases by the federal government for prior purchasing or other violations.

Her unit builds a vendor list and a web site for, for example, Requests For Proposals of greater than $25,000 and a link is created to the DAS web site.

Her unit also facilitates the Request For Proposal review process and works under the DD to ensure the review team's recommendations are valid and supportable by the agency. Her unit also disseminates the DD's award letters, as well as the notification letters to non-prevailing bidders. They also assist the DD to get the answers out regarding any protests they receive from non-prevailing bidders. They also manage any Public Records requests related to their procurement efforts and the resultant contracts.

She also stated that they work with the Drafting Unit to make sure all information is available and clear concerning: what is to be procured through the Request For Proposal document; what the vendor proposals are regarding a particular approach that the program area may need; and the price to be paid.

She emphasized that the largest part of her work is the development of the competitive vehicle, the writing of the Request For Proposal or the RLB, working with and understanding the industry involved, or knowing the vendors. She summarized that they look at the industry, the needs to be filled, and the needs of the public, and then apply the best practices for procurement.

Joint Exhibit D. (Resch) at Page D. states:

> Ms. Resch currently supervises a team of Management Analyst Supervisor 1s. She also has responsibility for developing new agency procurement policies and for making edits to existing policies.

Jay Easterling, supervisor for Appellant Kemper and Appellant Resch, also testified at hearing. DD Easterling offered support and confirmation for the testimony and contributions of each Appellant. He indicated that, as a supervisor, his duties include motivating his staff to high levels of productivity and valuing each of his employees, for the enhancement of the State of Ohio.

He expressed some concern that the State may not be sufficiently valuing its workforce, based on the process and results of the instant Classification Review. Mr. Easterling offered that he understood the need for such a Review but questioned whether we did enough up front work to begin with, in his words. From his testimony, it is obvious that DD Easterling recognizes that both Appellants bring a wealth of talent and experience to the table.

Appellant Kemper directed Mr. Easterling to the Paragraph 1. and 2. of the Specification for Purchasing Supervisor (64525). Mr. Easterling indicated that Appellant Kemper does not perform the bulk of the duties listed in these two paragraphs.

Under questioning from DAS Chief Counsel Harrell, DD Easterling indicated that Appellant Kemper does not in total fit the duties of the Purchasing Supervisor Class. He further indicated that he believed that, at some point in time, depending on when and what, you could fit Appellants into anything and that he did not believe the Purchasing Supervisor Specification was complete and specific in regard to Appellant Kemper.

He further indicated that he believed that directing purchasing activities in a Central Office (as set forth in the Purchasing Supervisor Class Concept), happens at the program office and that his Office facilitates purchases on a centralized basis. H also indicated that Ms. Kemper assists a Business Operations Manager 3 in the OIS office of DJFS and that Ms. Kemper deals with that position and its subordinates daily. He confirmed that OIS' procurement under that same BOM 3

comes through his office and that his role as the agency's procurement officer in that transaction is even higher than is the BOM 3's role.

Upon questioning from Appellant Resch, DD Easterling confirmed that virtually no purchase made through a DAS purchasing vehicle (such as a one-time bid or a purchase off the State term schedule) comes through Ms. Resch's unit. He further confirmed that contracts created by DJFS come to his office by virtue of the program's needs, combined with the RFP unit and with the output of the contract drafting unit.

Under additional questioning from Mr. Harrell, DD Easterling averred that for Ms. Resch also, the PS Class Concept is problematic; since it references decisions to purchase from an outside office and since Mr. Easterling's office assists the program office in carrying out its duties. He did note that Appellant Resch provides very little assistance to OIS' BOM 3.

Last to testify was Ashley Hughes. Ms. Hughes began her testimony by providing background concerning the general activities that occurred in regard to the MAS Classification Review process as well as her and Class/Comp's involvement with that process.

Ms. Hughes offered that both Appellant Kemper and Appellant Resch clearly supervised subordinates as were thus designated following Phase 1. of the Review process as encumbering positions exempt from collective bargaining, pursuant to R.C 4117.01 (C) (10).

She also referenced Joint Exhibit A 4 and reiterated Ms. Kemper's summary that Ms. Kemper: acts as ODJFS purchasing manager; directs and guides the DJFS purchasing functions; formulates and implements policies surrounding purchasing functions to include parts of the contract process, daily monitors agency expenditures; daily advises agency liaison on DAS and other related purchasing policies; attends internal and external meetings in reference to procurement, *et cetera* for 80 percent of Ms. Kemper's time.

Ms. Hughes mentioned that, while she heard testimony that Ms. Kemper does not edit requisitions, that duty is only one portion of Rank Three within the PS Specification.

She reiterated that, in her opinion, Ms. Kemper directs DJFS purchasing for at least 20 percent of her day and, thus, her duties fit within the PS Class Concept.

Ms. Hughes further indicated that Appellant Kemper's responses identified duties that were purchasing and procurement based. Thus, Ms. Hughes stated, once her Class/Comp Group identified Appellant Kemper's duties as a procurement Class, the Group looked at available Classes that included purchasing duties. Ms. Hughes elaborated that Appellant Kemper's duties were found to be consistent with the duties of the Purchasing Supervisor Class Concept and that there were no other supervisory Classes in the Purchasing Series.

Ms. Hughes then referenced Ms. Resch's packet and discussed Joint Exhibit A 3. She noted that Appellant Resch: provides technical assistance to program areas in the development of RFPs and other procurement instruments *et cetera* for 40 percent of her time. She meets with agency management to advise and offer technical assistance in procuring needed services from outside vendors in accordance with applicable state and federal standards and develops project-specific procurement methods and structure for Medicaid, Child Support, Child Welfare, Family Stability, Workforce Development *et cetera* for 30 percent of her time.

To summarize, Ms. Hughes averred, Appellant Resch conducts RFP and procurement services related functions for 70 percent of her time.

Ms. Hughes offered that, as with Ms. Kemper's duties, because Ms. Resch's duties were purchasing and procurement based, Ms. Hughes' group looked at the Purchasing Series and, as with Ms. Kemper, **O.A.C. 123:1-7-15 requires the incumbent to perform the duties of the pertinent Class Concept at least 20 percent of the time**. According to Ms. Resch's submissions, she directs purchasing for a large agency and directs personnel at least 70 percent of her time. So, Ms. Hughes stated, Appellant Resch's position was reclassified to Purchasing Supervisor.

[It is noted that R.C. 124.03 (A) (1) requires that the Board's decisions shall be consistent with the applicable Classification Specifications.]

Ms. Hughes averred that purchasing can also apply to the language in the Purchasing Series regarding obtaining services. She reiterated her earlier

comments that, pursuant to previous Class Plan changes and to the genesis of the Program Administrator Series, agencies were instructed that the incumbent Program Administrator must now administer a program.

Ms. Hughes agreed that Ms. Resch did not specifically use the word "purchasing" in any of her survey responses but used the word "procurement".

Ms. Hughes offered that the Class Concept that was available, in combination with the requirement of O.A.C. 123:1-7-15 (that at least 20 percent of the incumbent's duties must meet the pertinent Class Concept), dictated that the PS Class was the most appropriate and accurate Class for Appellant Resch's position.

Ms. Hughes indicated that DAS did not consider the Program Administrator Series because DAS has recently revised that Series so that, to qualify, the incumbent must be in charge of a program. She opined that purchasing is not a program and, so, the PA 3 Class would be inapplicable here.

She further testified that the PS Class is limited to large agencies. She then offered that small agencies may have purchasing conducted by a Purchasing Coordinator who likely reports to a Deputy Director or higher position.

Based on the testimony presented and evidence admitted at hearing and upon the post hearing supplementation responses and replies and additional analysis contained in the parties' post hearing statements, I make the following Findings:

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

Next, I find that the records support Appellant's respective summaries of their duties and the percentages that each Appellant spends on those requisite duties.

Based on the respective records, I also find that Appellant Kemper formulates DJFS policy for IPP.6011 Purchase of Goods and Services. I further find that Appellant Resch develops DJFS procurement policies and makes edits to existing policies.

CONCLUSIONS OF LAW

These cases present this Board with the question of whether Appellants' respective positions were properly reclassified to the Classification of Purchasing Supervisor, following the conclusion of DAS's instant Class Plan Review? Based on the testimony presented, the evidence admitted, and the post-hearing submissions of the parties, we may answer that the Purchasing Supervisor Classification provides the best fit with Appellants' respective duties. Accordingly, DAS' Class Plan Review Determination regarding Appellants herein should be affirmed.

DAS asserts that the Purchasing Supervisor Class is the most appropriate for each Appellant. From the records, a sound argument can be made the each Appellant performs the duties of the PS Class Concept at least 20 percent of the time.

However, utilization of the **Purchasing Supervisor Class** can be somewhat problematic, depending on how one interprets the "i.e." statement contained within the PS Class Concept, the pertinent part of which reads:

> ... in order to direct purchasing activities in *central office location* of *large* agency (i.e., agency having decentralized operations *such as* districts &/or parks & distribution of supplies, equipment & materials to subsidiary locations) ... (emphasis added)

The records do support a finding that DJFS, a large agency, utilizes a geographically central office location regarding its purchasing and fiscal operations. Yet, it can be argued that the records do not necessarily support a finding that DJFS utilizes decentralized operations such as districts or parks nor the distribution of supplies, equipment and materials to subsidiary locations. Since "i.e." statements are considered to be mandatory regarding compliance, that is to say not optional, then for Appellants to qualify for the PS Class Concept, we must either find that DJFS sufficiently utilizes such an operation or find that no other Class will properly and legally accommodate Appellants' job duties.

Appellants believe their respective positions should be reclassified to Program Administrator 3. However, if DAS is correct, Appellant cannot utilize the **Program Administrator 3 Class** since the incumbent must provide program direction and DAS asserts that the purchasing is a function but is not a program so as to qualify under the PA 3 Class Concept.

Appellants also assert that the Business Operations Manager 2 Class would provide an adequate fit and also a better fit than would the Purchasing Supervisor Class. Yet, the **Business Operations Manager 2 Class** Concept calls for the incumbent "...to plan, direct &/or coordinate administrative &/or support functions for largest division ...". Clearly, Appellants do not perform their functions for the agency's largest division but for the agency as a whole. Additionally, the records do not indicate whether DJFS utilizes divisions and, if so, what DJFS' largest division would be. It is also questionable whether Appellants sufficiently assist a BOM 3 so as to qualify for the BOM 2 Class Concept.

On its face, it appears that each of these three referenced Classes offers some problem or issue to be resolved. In particular, this is the reason why the undersigned asked the parties to supplement the records regarding DAS' contention that the PA 3 Class requires the incumbent to provide program direction over a qualifying program and as to whether, or not, "purchasing" would so qualify as such a program.

However, in reviewing the entirety of the records in this matter, it appears that DAS' arguments have merit regarding the potential inapplicability of both the PA 3 Class (Appellants' positions can be argued not to provide program direction) and of the BOM 2 Class (Appellants' positions do not provide significant assistance to a BOM 3 for a sufficiently large percentage of time and do not perform these duties solely for the agency's largest division).

It can certainly be argued that there is logic to DAS' argument that an incumbent performing a requisite function that is adequately and sufficiently described by another Class should not also qualify for, say here, a PA 3 Class.

DAS asserts this is because that incumbent is providing direction over a specifically assigned and identified *"function"* and not over a generalized non-specific *"program"*. Further, the more generalized PA Series is broad enough to theoretically encompass perhaps hundreds if not thousands of State positions.

Thus, utilizing the PA Series for all of these positions (when another Class more specifically describes the duties of the position) would likely blur the accuracy of the State Class Plan, a legally relevant document, and would diminish the utility of all of the Classes in the PA Series. We may take notice that such an occurrence led DAS and OCSEA to agree to delete the former Administrative Assistant Series

from the State Class Plan and to promulgate in its stead the new Program Administrator Series, among others. Accordingly, DAS mandates that incumbents in the PA Series must provide policy direction over a *"program"* as delineated, above.

Additionally, it appears that Appellants' respective duties are integrally related to, and further the operation of, purchasing for DJFS.

One may argue that the Purchasing Supervisor Class perhaps may not reflect the qualitative complexity of Appellants' respective duties. Yet, this Class was designed for large agencies. Thus, we may presume that, when DAS promulgated the Purchasing Supervisor Specification, DAS contemplated that the incumbent in a Purchasing Supervisor position would be involved in complex and sophisticated transactions.

Therefore, with one area still outstanding, we can say that the Purchasing Supervisor Class seems to provide the best fit with Appellants' duties.

Turning, again, to the PS Class Concept, we note that the component of the Class Concept "i.e." statement that seems mandatory is the component requiring the large agency purchasing activities to be conducted in a *central office location*. As noted in the testimony, the bulk of DJFS' purchasing activities appear to take place in the central location of Columbus and its surrounds.

Conversely, the second component of the Class Concept "i.e." statement seems to be more illustrative, using the phrase "such as" in referencing decentralized operations. Accordingly, it appears that DJFS would qualify under this (first) mandatory component of the PS Class Concept 'i.e." statement and, in addition, would qualify under the other remaining components of the PS Class Concept.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the **CLASS PLAN REVIEW DETERMINATIONS** of the Department of Administrative Services that Appellant Kemper's and Appellant Resch's respective positions were properly reclassified to Purchasing Supervisor (64525)

(Pay Range 11) and that Appellant Kemper and Appellant Resch were, as a result, properly placed in Step X, pursuant to R.C. 124.03 and R.C. 124.14.

JAMES R. SPRAGUE
Administrative Law Judge

JRS: