

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Danny R. Yates,

Appellant,

v.

Case No. 2013-REC-02-0043

Department of Public Safety, and
Department of Administrative Services, Human Resources Division,

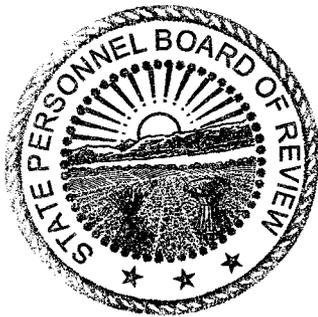
Appellees.

ORDER

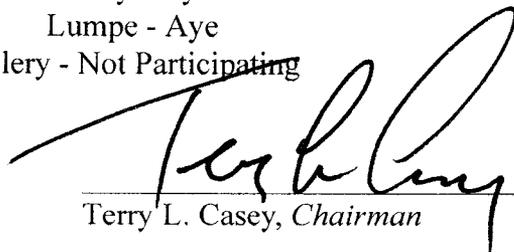
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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.

Wherefore, it is hereby **ORDERED** that the Class Plan Review Determination of the Department of Administrative Services finding that the Appellant's position be reclassified to a Purchasing Supervisor, classification specification number 64525, and that Appellant remain in Step X in accordance with pertinent law, is **AFFIRMED**, pursuant to R.C. 124.03 and 124.14.



Casey - Aye
Lumpe - Aye
Tillery - Not Participating


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, January 09, 2014.


Clerk

1/9/14rc

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**

Danny R. Yates,

Case No. 13-REC-02-0043

Appellant

v.

December 9, 2013

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

and

Dept. of Public Safety,

Christopher R. Young
Administrative Law Judge

Appellee

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came to be heard following the pre-hearing held on March 20, 2013 and at the record hearing held on June 21, 2013. Present at the hearing was Appellant, Mr. Danny Yates, presently classified as Purchasing Supervisor, who appeared *pro se*, offered testimony at the record hearing on his own behalf. The Appellee, Department of Public Safety (OPDS), was present through its designee, Ms. Julianne Lee, a Labor Relations Officer. The Appellee, Department of Administrative Services (DAS) was present through its designee, Ms. Ashley Hughes, Human Capital Management (HCM) Manager for the Classification and Compensation Unit (Class/Comp), offered testimony at the record hearing as the person who was familiar with the results of the surveyed audit results. Further, the Appellant's immediate supervisor, Ms. Kelli Whalen, currently classified as a Management Analyst Supervisor 2, offered testimony, as well.

This cause comes on due to Appellant's February 4, 2013 timely filing of an appeal from the reclassification of his position from Management Analyst Supervisor 1 (63215) (Pay Range 12) to a Purchasing Supervisor (64525) (Pay Range 11), effective with the payroll period beginning after January 4, 2013, the date he was notified of his reclassification. This Class Plan Review Determination came about following DAS' deletion of Appellant's former Class of Management Analyst Supervisor 1 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). It should be noted that the aforementioned was stipulated to, as well as, the subject matter jurisdiction of this Board was established. Further, the jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

Before proceeding onto the record, the Appellant, Mr. Danny Yates, stated that although he is presently classified as a Purchasing Supervisor (64525) (Pay Range 11), he believes that he should have been placed into the classification specification of a Program Administrator 2 (63123) (Pay Range 12), as that would be a better fit with his duties. Further, the undersigned reviewed the classification specification of an Administrative Officer 1 (63131) (Pay Range 12) in trying to resolve this matter, as well as his current classification of a Purchasing Supervisor.

STATEMENT OF THE CASE

The first witness to testify was Mr. Danny Yates, who is currently classified as a Purchasing Supervisor as result of the instant survey, but who had previously held the position of Management Analyst Supervisor 1, a position he held since 2008 in a temporary working level then permanently in 2010. When questioned, the witness testified that his current supervisor is Ms. Kelli Whalen, a Management Analyst Supervisor 2, whom he has been reporting to since 2008. The witness testified that Ms. Whalen as two direct reports, Mr. Don McClure, another Management Analyst Supervisor 1, and himself. The witness then identified Appellee's Exhibit 7 as a table of organization for the Division of Administration Office of Business Services Procurement Services, which included three units, those being; Direct Purchase/Contract Unit; Major Acquisitions Unit and Contract Unit. The witness testified that he worked under the Direct Purchase/Contract Unit wherein he supervised six individuals since 2008 who held the position of Purchasing Coordinators. When questioned, the witness testified that as a supervisor he approves his subordinates leave time, handles their respective performance evaluations and effectively recommend discipline, when and if necessary. Further the witness, when questioned, testified that he works Monday through Friday from 7 AM to 4 PM.

Next, the witness testified that the overall function of the Direct Purchase Unit is to purchase the statewide communities for the (8) major divisions within the

Department of Public Safety wherein it tracks the RTP (request for purchase) that are reviewed by himself, and then assigned to the purchasing coordinators. The witness testified that there are guidelines that need to be monitored with the purchasing of these commodities, and that is what they are doing to ensure that the purchasing of these commodities is in compliance. The witness testified that after he assigns the RTPs, they work on these requests, to then be reviewed by him and then finally to be reviewed by Ms. Whalen, only then to be sent on to the Fiscal Department within the Ohio Department of Public Safety. When questioned, the witness testified that he does not set up a budget within the Unit which he works. The witness then testified that the most important function that his unit performs is to ensure that each purchase is in compliance with State guidelines, along with being in compliance with the Ohio Department of Public Safety's guidelines. The witness testified that while it may seem perfunctory to simply process RTPs, often the requisitions that come in have items that still need to be filled in by the requesting party, thereby requiring him or one of the purchasing coordinators to have interaction with individual and/or department requesting the purchase, all while understanding the parameters that are set forth in the guidelines.

The witness then identified Appellee's Exhibit 1, page 4 of 4, and explained that as part of the survey he filled out his job duties in order of importance and time spent in each of those job duties. Further, the witness when questioned testified that while he filled out his job duties as of August 23, 2012, he still performs those duties with a couple of exceptions.

The witness testified that approximate 60% of his time was spent serving as the agency:

Direct Purchasing Manager for the statewide purchase of goods, services and equipment for eight (8) divisions of the Ohio Department of Public Safety (EMA, EMS, OCJS, PISG, OSHP, ADMIN, BMV and OTSO). Develop planning and procedure change and recommend changes in policy and procedures. Review files for compliance with purchasing laws and directives. Supervised six (6) staffer purchasing compliance and give daily guidance. Review vendor bids and make decision relative to all purchases. Assist with major procurement projects where the dollar of the procurement dictates [under current policy] the procurement must be managed by the DAS. Work with DAS Investment and

Governance Division, Procurement Services (for IT and non-IT), DAS legal, and the Ohio Department of Public Safety Management acquisition approach for the goods/or services being acquired, asked as he contact point for inquiries and clarification questions from vendors, internal customers and agency heads. Responsible for informing Ohio Department of Public Safety Management of major purchasing projects pending and submitting release and permits to DAS State purchasing for CB request. Interface with the Contract and Direct Purchasing Units to support needed documents in their files and assist to complete the acquisition. Assigning Ohio Administrative Knowledge (OAKS) requisitions to six staff members daily. Assist with updating user security in OAKS and training for new OAKS users.

The witness testified that approximate 30% of his time was spent serving as the agency:

Monitoring and coordinating NIGP (National Institute of Government Purchasers) certification and training of subordinates. Prepare weekly reports; responsible for quarterly MBE/EDGE reconciliation reports. Complete special projects for the department head or system as required. Perform annual evaluations for six (6) staff. Conduct employee counseling, discipline and administer Administrative Investigations as required. Fulfill duties as Supervisor – Contract Unit in his/her absence.

The witness testified that approximate 10% of his time was spent serving as the agency:

Provide consultations and training for ODPS personnel regarding purchasing requirements; maintains liaison with commercial sources and government agencies. Participate in outreach programs and represent the agencies and outreach programs for MBE/EDGE certifications.

The witness then identified Appellee's Exhibit 5 as a position description of his position as a Management Analyst Supervisor 1, dated August 24, 2010, and agreed when questioned, that the duties listed thereon are essentially the same duties listed above, duties which he is been performing in the past, also at the time when he filled out the survey, as well as today.

The witness was then directed to look at and review the Program Administrator 2's classification specification. When questioned, the witness testified he does act for the Administrator when he implements departmental goals, and as an example gave that there is a 15% MBE requirement goal for direct purchasing spending to those MBE vendors, which they try to meet each year. Additionally, the witness testified that he does serve as a liaison between the Administrator and subordinates transmits decisions and directives and represents Administrator at meetings and assumes responsibility and authority in the Administrator's absent. Moreover, the witness testified that he does formulate and implement program policy along with supervising assigned staff, as all these duties are called for in the first job duty in order of importance. Moreover, the witness when questioned testified he does develop and coordinate public relations programs in response to inquiries and complaints and furnishes this information to the public, but does not explain programs to legislatures and the news media, nor does he write position papers and reports or make speeches and give lectures or prepares news releases. While the witness testified that he did not manage the business function of the administrator's office or prepare and administer any budget, he does oversee the maintenance of fiscal controls and authorizes expenditures and purchases and administers special programs and projects as part of his duties.

The Purchasing Supervisor's classification specification (see Appellee's Exhibit 6) was then reviewed by Mr. Yates. The witness when questioned testified with respect to the job duties in order of importance, stated that he essentially performed everything listed within this classification specification.

There were no questions asked by the ODPS representative Ms. Julianne Lee, a Labor Relations Officer or Ms. Ashley Hughes, a Human Capital Management Manager from DAS.

The next witness to testify was Ms. Kelli Whalen who explained that she is employed by the Ohio Department of Public Safety as a Management Analyst Supervisor 2, a position she's held since May 2010, along with having been the

Appellant's supervisor since then, with having a total of 18 years with the department. Specifically, when questioned, if the Appellant's testimony regarding his job duties and/or responsibilities were accurate, Ms. Whalen testified in the affirmative, as she was in the hearing room and heard the same. However, the witness did clarify one item regarding the Appellant's use of the term "formulate and implement policy" would be better described as "enforcement" of those policies. The witness then identified Appellee's Exhibit 2, pages 2 of 4, 3 of 4 and 4 of 4 under section 8 wherein she compiled a complete list of the Appellant's duties, which were not all that different from the Appellant's direct testimony, noting that there was nothing about the formulation and implementation of any policy.

The last person to testify was Ms. Ashley Hughes, a Human Capital Management Manager within the Classification and Compensation Unit a position she's held with the Department of Administrative Services, since March 2012. When questioned, the witness testified that pursuant to Ohio Revised Code Section 124.14 the Department of Administrative Services sent out a survey in a class plan review determination regarding the deletion of the classification specifications of both the Management Analyst Supervisor 1 and Management Analyst Supervisor 2 positions, and is familiar with the results of the instant reclassification appeal. The witness testified that after a thorough review of Mr. Danny Yates' job duties and/or responsibilities she found that Mr. Yates was properly classified as a Purchasing Supervisor, classification specification number 64525. Ms. Hughes testified when reviewing Mr. Yates' survey package identified previously as Appellee's Exhibit 1, page 4 of 4, she found that Mr. Yates primarily was responsible for purchasing of goods, services and equipment for the Ohio Department of Public Safety, along with supervising six (6) Purchasing Coordinators to achieve this action. Further, the witness testified that she looked at the series purpose of the purchasing classification series wherein it states that the purpose of the purchasing occupation is to purchase supplies, materials, equipment and/or services required for operation of an assigned state agency, and found that this is essentially what the Appellant was performing. Moreover, the witness testified she also looked at the class concept of the purchasing classification series and found that he met the class concept of a Purchasing Supervisor as he was providing supervision in directing purchasing activities in a central office location of large agency, while supervising purchasing and support personnel. For the reasons stated above, the witness testified that it was found that Mr. Yates should be properly placed into the classification specification of a Purchasing Supervisor.

The witness when questioned testified that she did review other classification specifications, in particular, the Program Administrator Series, and explained that when DAS was reviewing this series, one had to administer "programs" and that "purchasing" is a function, but not a program. Moreover, the witness testified that she found that Mr. Yates did not formulate and/or implement policy as part of his job duties, as pointed out by the Appellant's supervisor Ms. Whalen, as another reason why the Program Administrator Series was not a good fit for the Appellant herein. Thus, Ms. Hughes opined that Mr. Yates should not have been placed into any Program Administrator Series classification specification.

Additionally, the witness testified with respect to the Administrative Officer classification series, and whether that would be something that could be considered for the Appellant to be placed into, testified in the negative. Ms. Hughes testified that the series purpose of the Administrator Officer classification series states that the purpose of Administrative Officer occupation is to plan, direct and coordinate activities within assigned area, and is generally used as a broad classification specification, and not when job functions are generally described by another existing classification specification designed for that function. Ms. Hughes explained that since the classification specification of a Purchasing Supervisor best describes the Appellant's duties in a very specific manner, the Administrative Officer classification series would not be a best fit, and should not be considered.

FINDINGS OF FACT

There were no real discrepancy between the Appellants' characterization and the duties that he performed and those of the testimony of his direct supervisor, Ms. Kelli Whalen, a Management Analyst Supervisor 2, with the exception that the Appellant did not formulate and/or implement policy as part of his job duties. Therefore, I find as a matter of fact, the Appellant performed the duties about which he testified, with exception to the above noted.

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, Mr. Danny Yates, stated that although he is presently classified as a Purchasing Supervisor (64525) (Pay Range 11), he believes that he should have been placed into the classification specification of a Program Administrator 2 (63123) (Pay Range 12) or an Administrative Officer 1's position. However, as was noted by the undersigned the Ohio Department of Administrative Services, through its designee, Ms. Ashley Hughes, a Human Management Capital Manager found that the Appellant was properly classified as a Purchasing Supervisor. After a thorough review of the above mentioned classification specifications, it is my recommendation that the Appellant was properly classified as a Purchasing Supervisor. Based on the findings set forth, above, and for the reasons set forth, below, it appears that Appellant's position was properly re-classified to Purchasing Supervisor (64525) (Pay Range 11) (Step X). Accordingly, this Board should affirm DAS' instant Class Plan Review Determination.

As an alternative to the Purchasing Supervisor classification the appellant suggested that he may be more properly classified into an Administrative Officer1classification specification and/or a Program Administrator 2 classification.

When reviewing the classification specification of an Administrative Officer 1, as was correctly noted by Ms. Ashley Hughes this is not the best fit for the Appellant herein. When reviewing the series purpose of an Administrative Officer it defined one as an occupation that plans, directs and coordinates activities within an assigned area, along with the fact that the classification series itself may not be used to cover any functions currently described by another existing classification specifically designed for that function. The facts in this case revealed that there is a Purchasing Supervisor classification specification that almost exactly matches the duties of the Appellant. Additionally, in reference to the job duties in order for importance with the Administrative Officer 1 classification reveals, among other things, one that should organize and coordinate "program" activities while developing policies and procedures for them, all while analyzing and evaluating those programs, as well as serving as a liaison with public officials and developing and monitoring the budget while negotiating contracts for major purchases, all job duties/responsibilities the Appellant does not perform. Thus, the Administrative Officer 1, and series, should not be considered in this matter.

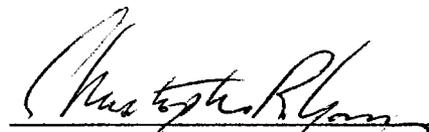
When reviewing the Series Purpose language for the Program Administrator Series for a Program Administrator 2 (63123) it reads: "at the second level, incumbents relieve superior of Friday it difficult administrative duties and formulates and implements program policy or does all the proceeding and supervises assigned staff." In the instant case, the testimony revealed that the Appellant does not formulate and implement program policy, but does enforce those policies, as a very important oversight function. Additionally, when reviewing the job duties in order of importance of a Program Administrator 2, it also calls for one to manage the business function of the administrative office wherein that person would prepare and administer budgets, both of which the Appellant did not perform as part of his tasks. Thus, as was revealed by the evidence thereof, the undersigned Administrative Law Judge rejected the above noted classification specification as not being an appropriate fit.

After reviewing Mr. Yates' testimony with regard to his job tasks and/or responsibilities it became apparent after reviewing the classification specification of a Purchasing Supervisor classification specification it was almost an exact match of job duties for the Appellant herein. When reviewing the classification specification of a Purchasing Supervisor's class concept it revealed that an incumbent holding that position works under administrative supervision and requires extensive knowledge of purchasing/procurement, applicable state regulations and procedures governing

purchasing a supervisory techniques/principles in order to direct purchasing activities in a central office location of a large agency, while supervising purchasing and support personnel. This is exactly what the Appellant did in the performance of his job duties/responsibilities. Thus, the evidence at the record hearing revealed that these duties are what the Appellant performed and that the classification specification of a Purchasing Supervisor was an appropriate classification for the appellant to have been placed.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the **CLASS PLAN REVIEW DETERMINATION** of the Department of Administrative Services finding that the Appellant's position be reclassified to a Purchasing Supervisor, classification specification number 64525, and that Appellant remain in Step X in accordance with pertinent law, pursuant to R.C. 124.03 and 124.14.



Christopher R. Young
Administrative Law Judge

CRY: