

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

Reginald E. Wheeler,

Appellant,

v.

Case No. 2013-REC-02-0045

Department of Rehabilitation & Correction, Central Office,
and
Department of Administrative Services, Human Resources Division,

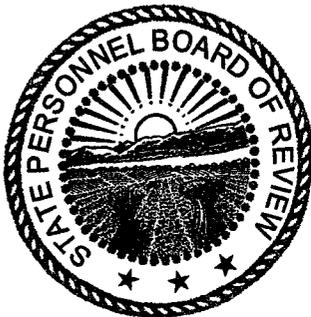
Appellees,

ORDER

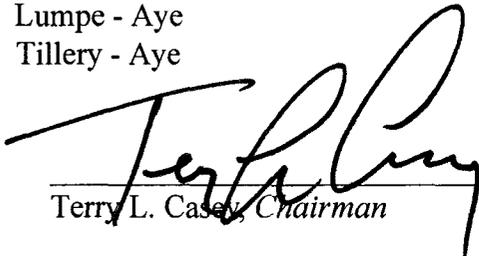
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellant's position be **RECLASSIFIED** to Program Administrator 3.



Casey - Aye
Lumpe - Aye
Tillery - Aye

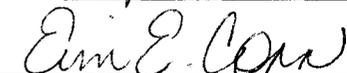


Terry L. Casey, *Chairman*

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, April 16, 2014.



Clerk

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

4-16-14

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

Reginald E. Wheeler

Case No. 2013-REC-02-0045

Appellant

v.

January 31, 2014

Department of Rehabilitation & Correction,
Central Office

and

Department of Administrative Services,
Human Resource Division/Compensation &
Workforce Planning

Appellees

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on due to Appellant's timely appeal of the reclassification of his position. Pursuant to a study conducted by Appellee Department of Administrative Services, the classifications of Management Analyst Supervisor (MAS) 1 and 2 were removed from the state classification plan and incumbent employees' positions were subsequently reclassified. Appellant's position was reclassified from Management Analyst Supervisor 2, classification number 63216, to Administrative Officer 1, classification number 63131.

A record hearing was held in the instant appeal on August 21, 2013. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Rehabilitation and Correction (DRC) was present at record hearing through its designee, Human Resources Legal Counsel Amy C. Parmi; Appellee DAS was present at record hearing through its designee, Acting Human Capital Manager Bobbi Lind.

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

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

Appellant Reginald Wheeler testified that he is presently employed by Appellee Department of Rehabilitation and Correction (DRC) in a position classified as Administrative Officer 1. He confirmed that his position was reclassified in January 2013 as a result of Appellee Department of Administrative Services' (DAS) Management Analyst Supervisor study.

Appellant recalled that he provided DAS with information regarding his job duties in August 2012, and confirmed that the information he provided at that time was accurate. He noted that in August 2012 he was primarily responsible for oversight and management of Appellee DRC's Support Services Center, which included supervision of Mailroom and Storeroom operations and building management DRC's Central Office. Appellant explained that Support Services coordinates all facility set-up, staff moves, cleaning, recycling, and maintenance.

Appellant indicated that in August 2012 he was also fully responsible for DRC's Asset Management and Fleet Management programs. He testified that in September 2012, some of his Fleet Management responsibilities duties changed when mechanical and vehicle issuance duties were shifted to DRC's Ohio Penal Industries (OPI) division. Appellant stated that he retained responsibility for scheduling vehicle service, managing the reservations center portion of the Fleet Management program, and collecting mileage reports. Appellant noted that he still troubleshoots additional Fleet Management related issues on a regular basis.

Appellant indicated that he assumed responsibility for Appellee's Minority Business Enterprise (MBE) program in September 2012. He explained that he prepares and submits Appellee's annual MBE plan which must be provided to the Department Administrative Services. Appellant indicated that he works with other state agencies to coordinate DRC's MBE activities, meets with vendors, attends conferences and job fairs. He confirmed that he is responsible for developing and providing MBE training for DRC's institutional business administrators.

Appellant observed that the scope of the programs he oversees is extensive, as they are agency-wide and serve all of Appellee DRC's institutions, Adult Parole Authority regional offices, and all of the Ohio Penal Industries (OPI) sites. He testified that he independently manages each of the areas of responsibility assigned to him, drafts policy and guidelines as needed and submits those policies to DRC's policy review committee for approval. Appellant confirmed that he has the authority to purchase necessary materials and supplies using the departmental credit card assigned to him. He indicated that he supervises both full-time employees, temporary employees and inmate workers in the programs he manages.

Appellant noted that in August and September 2012, Asset Management took up the majority of his work time, but indicated that his supervisor, Ken Kopycinski, has assumed responsibility for physical inventory since then. He testified that the MBE program and supervision of staff now consume most of his time. Appellant indicated that he continues to serve as a resource to Mr. Kopycinski, and as a result of his broad work experience also performs special duties as assigned, such as escorting and assisting VIP guests on behalf of the agency.

Ken Kopycinski testified that is presently employed by Appellee DRC as Assistant Chief of the Division of Business Administration, and stated that he has been Appellant's supervisor since June 2013. He confirmed that Appellant's testimony regarding his job responsibilities was accurate and echoed Appellant's statements regarding the scope of the programs he oversees. The witness confirmed that he has overall responsibility for Asset Management and coordinates the physical inventory, but stated that Appellant has substantial Asset Management responsibilities including salvage and recycling.

Mr. Kopycinski estimated that thirty five percent of Appellant's working time is devoted to managing the MBE program, with the remainder divided between Asset Management, Fleet Management and Support Services duties.

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 classification series for Administrative Officer, Equal Employment Officer and Program Administrator were considered. The series purpose of the Administrative Officer occupation is to plan, direct and coordinate activities within an assigned area. The series purpose of the Equal Employment Officer occupation is to develop and implement activities to assure compliance with equal employment opportunity and affirmative action government regulations for an assigned state agency. The series purpose of the Program Administrator occupation is to provide program direction by relieving an incumbent's superior of administrative duties.

The class concept for the Administrative Officer series indicates that incumbents at the first level, Administrative Officer 1, organize and coordinate all program activities of a non-technical division or section of a state agency and supervise assigned staff. Examples given of non-technical divisions or sections include: clerical/word processing/secretarial, mail room, fleet management, or delivery. Appellant's position is currently classified as Administrative Officer 1. At the next level, Administrative Officer 2, incumbents plan, direct and coordinate the activities of a major division, section or bureau of state agency and supervise assigned staff. No examples are given to define the term "major." Given the testimony at record hearing regarding the scope of the Asset Management and Fleet Management programs, I find that they may reasonably be described as "major." Evidence gathered at record hearing, however, indicates that Appellant organizes and coordinates some, but not all program activities within these areas, therefore, I find that it would not be appropriate to place his position within this classification.

The class concept for the EEO Officer series states that incumbents at all levels have responsibility for a state agency's equal employment opportunity (EEO) and affirmative action plan. The Minority Business Enterprise (MBE) program managed by Appellant is referenced only as a component of an overall EEO plan. When read in conjunction with the series purpose, I find that the series is not descriptive of an employee with responsibility for only an isolated component of an agency EEO plan. Accordingly, I conclude that it would not be appropriate to place Appellant's position within the EEO Officer series.

The class concept for the Program Administrator series states that incumbents at the lowest level relieve their superior of non-routine administrative

duties; at the secondary level they relieve their superior of difficult duties; and at the highest level they relieve their supervisor of the most difficult administrative duties. At all levels, incumbents formulate and implement program policy. Testimony at record hearing indicated that Appellant is independently responsible for oversight of a variety of programs, and has partial responsibility for others, such as Asset Management. Appellant's superior, Mr. Kopycinski, testified that he has the overall responsibility for Asset Management, but that Appellant independently manages the salvage and recycling aspects of the program, which are extensive. Within Appellee DRC's structure, only Deputy Directors have the authority to approve policy; Appellant testified that he prepares program policy as needed and forwards it to the policy committee.

Upon a review of all of the testimony and consideration of Appellee DRC's organizational structure, I find that the job duties performed by Appellant are sufficient to comprise "most difficult" duties, as referenced by the Program Administrator 3 classification. I further find that Appellant formulates and implements program policy with regard to the components of the Asset and Fleet Management programs he oversees, as well as the MBE program he manages. Information contained in the record indicates that Appellant performs these duties for at least twenty percent of his working time.

While no classification was identified that fully describes all of the duties performed by Appellant, I find that the classification specification which most closely reflects the scope and nature of Appellant's responsibilities is Program Administrator 3. Therefore, I respectfully recommend that Appellant's position be **RECLASSIFIED** to reflect that designation.


Jeannette E. Gunn
Administrative Law Judge