

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Carolyn S. Caulley,

Appellant,

v.

Case No. 2013-REC-08-0222

Department of Rehabilitation & Correction,
Pickaway Correctional Institution, and
Department of Administrative Services, Human Resources Division,

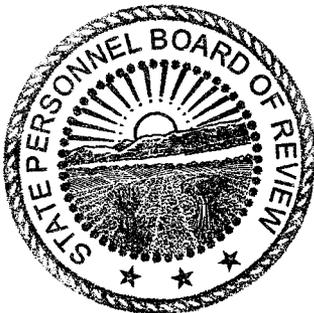
Appellees.

ORDER

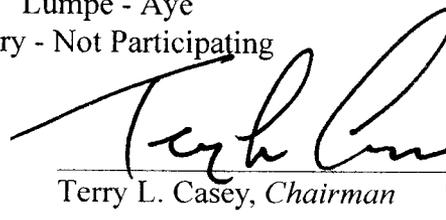
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 instant job audit determination of the Department of Administrative Services is **MODIFIED** and, accordingly, **RECLASSIFY** Appellant's position as Program Administrator 2, 63123, pursuant to R.C. 124.03 and R.C. 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

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**

Carolyn S. Caulley,

Case No. 2013-REC-08-0222

Appellant

v.

December 11, 2013

Department of Rehabilitation and Correction,
Pickaway Correctional Institution

and

Department of Administrative Services,
Human Resources Division,

Appellees

James R. Sprague
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This case came to be heard on October 31, 2013. Present at the hearing was Appellant, who appeared *pro se*. Appellee Department of Rehabilitation and Correction (DR and C), Pickaway Correctional Institution (PCI) was present through its designees, Amy C. Parmi, Human Resources Counsel, and Mary Roush, Nurse Supervisor [and Acting Medical Operations Manager -- currently in the classification of Health Planning Administrator (HPA) 4]. Appellee Department of Administrative Services (DAS) was present through its designee, Jo Ann Lucas, Human Capital Management (HCM) Senior Analyst.

This cause comes on due to Appellant's August 8, 2013 timely filing of an appeal from a job audit determination that was dated August 8, 2013 and was effective July 14, 2013. Appellant's previous classification was Program Administrator (PA) 1, 63122. Her new classification is Administrative Professional (AP) 3, 16873, which is a classification that falls within the bargaining unit. Because Appellant's classification was reduced, Appellant was placed in "Step X". Appellant has suggested that her position would be more properly classified as Program Administrator 2, 63123 and DR and C supports Appellant's request.

At the conclusion of the hearing, the parties requested that the record be kept open to allow DAS to consider and possibly supplement the record, with a requisite opportunity for Appellant and for DR and C to reply to DAS' possible supplementation. On or about November 13, 2013, DAS send an email essentially indicating that DAS chose not to utilize the option to supplement the record. Accordingly, the instant record closed on November 13, 2013.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

At hearing, three witnesses testified. First to testify was **Appellant, Carolyn S. Caulley**, PCI's Assistant Healthcare Administrator, whose current classification is Administrative Professional 3. Next to testify was **Mary Roush**, serving in a temporary capacity as a Health Planning Administrator 4, and also serving as Appellant's supervisor. Last to testify was **Jo Ann Lucas**, Senior Human Capital Management Analyst.

Appellant began her testimony by noting that she works at the Frazier Health Center housed inside the Pickaway Correctional Institution, where Appellant serves as the Assistant Healthcare Administrator (AHA). The record reflects that Frazier Health Center can reasonably be analogized to a 150-to-200 bed hospital.

Appellant's immediate supervisor is Mary Roush, Nurse Supervisor, who is serving as PCI's Acting HPA 4. Ms. Roush is supervised by Michael Davis, Deputy Warden for Special Services. Deputy Warden Davis is supervised by Warden Brian Cook.

DR and C has asserted that Appellant essentially runs or maintains the non-medical side of the administrative office of the Frazier Health Center.

Appellant stated that she supervises seven Health Information Technicians, one Scheduler, two Lab Technicians, and one X-Ray Technician. Regarding those positions, Appellant schedules, reviews/approves time slips, oversees work duties, and steps in as appropriate during shortages. (These positions fall under a contract established between DR and C and the Contractor. Thus, these positions are not civil service positions and Appellant's supervision of these positions would not qualify Appellant as a supervisor under O.A.C. 123: 1-7-15.)

Appellant indicated that she works for all of the following departments or areas within the Health Center: the dialysis unit; the dental unit; the infirmary; long term care; the pill call center; and the pharmacy.

Appellant noted that she coordinates the Nursing Schedules and assignments for all of the Health Center's pertinent contract and civil service bargaining unit staff, as well as oversees requests for leave, overtime, and requests for call off. This includes performing these duties regarding 41 Registered Nurses, 22 Licensed Practical Nurses, and 18 State Tested Nurse Aides under collective bargaining. Appellant's scheduling and leave duties encompass about 80 percent of Appellant's daily duties. She also ensures these personnel have properly and timely maintained their respective credentialing.

Appellant's duties in this area do meet some of O.A.C. 123: 1-7-15's four requirements for supervision. Yet, Appellant's duties do not meet *all four* components set forth therein to qualify as a supervisor.

Appellant testified that she possessed a Dental Assisting degree. She further offered that she has served with DR and C for 26 years, which includes 6 years of service as the Secretary to the HCA.

Appellant also performs scheduling and time review for PCI's Chief Medical Physician, two Certified Nurse Practitioners, and two Physicians.

Appellant also handles on a daily basis, as allowed by law, inmate Kites and informal complaints.

Appellant averred that a variable two to three percent of her day includes supervising medical reports concerning the area in which the Health Information Technicians work. Appellant also serves as the Custodian of Records for this area of PCI.

Appellant stated that she spends a variable 10 percent of her time responding to inmate family concerns, complaints, or medical issues. She researches same and then turns her findings over to Acting Medical Operations Manager Roush or to the Nurse Supervisor; to complete the inquiry and contact the family.

Appellant offered that she works closely with the Office of the Ohio Attorney General on requests for inmate medical records. She also stated that she responds to SSI requests from the Social Security Administration and responds to requests from outside Attorneys, outside Physicians, and the Adult Parole Authority.

Appellant indicated that about five percent of her day involves performing miscellaneous duties that may arise. This component also involves ordering or securing the ordering of all office supplies and medical supplies and equipment for the Health Center. She must ensure or ascertain that sufficient funds are available to order same and for any requested overtime for the staff she monitors, pursuant to a cost containment committee.

Appellant indicated that about two percent of her day includes the daily collection of data for PCI's Monthly Statistical Report for the Warden and Central Office and for the Monthly Outcome Measures report. Appellant also tracks on-call staffing.

Appellant tracks **biohazard** waste and maintains reports on PCI's collection and pickup for the institution's incineration.

She assists the Business Office with the contracts for oxygen, for maintenance of PCI's dialysis systems, and for **biohazards**.

Appellant formulated a plan to take away PCI's biohazard waste.

Appellant stated that **she wrote the entire PCI policy for the biohazard removal procedure** (please see Appellant's Exhibit 4) and is **responsible for maintaining training on same**.

Appellant **serves as part of the biohazard waste committee** and **coordinates with PCI's Health Safety Staffer once per month regarding collection and removal**.

Appellant confirmed that she is **a member of the standing committee dealing with** cost containment, therapeutic treatment, pharmacy, and **biohazard waste**.

Appellant stated that perhaps five percent of her day involves taking minutes for all the meetings held in the Medical department, which minutes she types and distributes.

Appellant noted that about 25 percent of her day involves, on an ongoing and periodic basis, Appellant's chairing her department's component of the requirement to compile and complete the ACA annual accreditation; as it involves 78 medical standards and local PCI medical policies. This includes Appellant's ensuring that PCI's medical files are in compliance.

Appellant's supervisor, Mary Roush, was in agreement with the testimony offered by Appellant. Ms. Roush declared that Appellant was invaluable and that Ms. Roush could not get through a day without her.

Ms. Roush added that Appellant: monitors the internal postings for Nursing vacancies; interprets the pertinent collective bargaining agreement to appropriately award internal vacancies; and coordinates with Personnel concerning work with new hires.

Ms. Roush indicated that other institutions have requested that Appellant train their respective HPAs on Appellant's tracking mechanism concerning data captured for DR and C's Bureau of Internal Audit Standards and Compliance. She also offered that Appellant serves as a liaison between Ms. Roush and various other personnel and that Appellant acts as a designee/attendee for Ms. Roush regarding a number of functions, including at the Medical Leadership Quarterly Meetings.

Also testifying was Jo Ann Lucas, Senior HCM Analyst with DAS' Human Resources Division. Ms. Lucas offered that, in determining what classification provides the best fit with an employee's duties, DAS focuses on the qualitative (or authoritative) aspects of those duties and not on the quantitative (volume) of those duties.

Ms. Lucas indicated that scheduling is not a program. She further stated that it appears that Appellant tracks but does not approve leave requests and does not hire.

Ms. Lucas also averred that it appeared that Appellant does not formulate and implement program policy, as is required for an incumbent to hold a classification in

the Program Administrator, 6312 class series. She did note that the term "program" is not currently defined in O.A.C. 123:1-47-01 ("Definition of terms.").

She also stated that Appellant does not meet the reporting requirement set forth for an incumbent in the Administrative Professional 4, 16874 classification.

Ms. Lucas testified that the DR and C designee who assisted DAS during the actual job audit process did not agree with Appellant and with Appellant's supervisor, essentially by offering that Appellant does not approve leave requests and that Appellant does not provide training but does provide direction. Further, Ms. Lucas averred that OAKS does not show Appellant's position having any direct reports.

Based upon the testimony presented and evidence admitted at hearing, I make the following Findings:

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

Next, I incorporate Appellant's testimony regarding the percentages that she utilized at hearing regarding her job duties.

Further, I find that Appellant did formulate and does continue to implement program policy in regard to PCI's biohazard retention and disposal. She continues to be heavily involved in this process and she clearly assists to administer same.

The undersigned notes that Appellant has numerous and diverse work duties, ranging from simple and routine to unusual, difficult, and complex. It is equally clear that Appellant is a valued and valuable member of the PCI team and is an important contributor to the overall success of the Frazier Health Center.

CONCLUSIONS OF LAW

This case presents this Board with the question of whether Appellant's position is more properly classified in the Administrative Professional or, alternatively, the Program Administrator class series. Based on the findings set forth, above, and for the reasons set forth below, this Board should find that

Appellant's position is more properly classified in the Program Administrator series and, accordingly, should modify DAS' job audit determination in this matter.

Following its job audit, DAS determined that Appellant's position was most properly classified as Administrative Professional 3, 16873, which falls within the applicable bargaining unit. Thus, let us begin with an examination of that classification.

The Series Purpose language pertinent to the AP 3, 16873 class reads:

At the third level incumbents perform non-routine administrative tasks & provides secretarial support for the office or perform non-routine administrative tasks & act as lead worker over lower-level administrative &/or office support staff.

The Class Concept language for the AP 3 calls on the incumbent:

... to provide secretarial & non-routine administrative support (i.e., independently formulates decisions &/or judgments involving non-legal interpretation of policies & procedures as they would apply to given situation to resolve problems, to prepare correspondence &/or reports or to carry out other assignments) & if assigned, acts as lead worker over over-level administrative &/or support staff.

It is noted that Appellant's position does not fall within the level of the organization to qualify the position for the AP 4 classification.

It is easy to see why DAS chose to utilize the AP 3 class for Appellant's position. The class is broad in the duties it encompasses. It also includes lead work, non-routine work, and the independent formulation of decisions. All of these characteristics or elements are found in Appellant's duties, as set forth, above.

As well, we should recognize that DAS worked in good faith with Appellee DR and C and with Appellant to see whether another class could be found that would legally satisfy the goals and requirements of the parties; but the parties were unable to bring that task to fulfillment. Further, we should note that DAS was thorough in the review it performed and that its designee at hearing, Senior HCM Analyst Jo

Ann Lucas, certainly performed commendably and professionally at the hearing in this matter.

However, it may be that this Board should further consider a class that DAS ultimately chose not to utilize (*i.e.* Program Administrator 2) but one that both DR and C and Appellant believe provides the best fit with Appellant's duties.

The Series Purpose language pertinent to the PA 2, 63123 class reads:

At the second level, incumbents relieve superior of variety of difficult administrative duties & formulates & implements program policy or does all of the [preceding] & supervises assigned staff.

The Class Concept for the PA 2 calls on the incumbent to perform duties:

... regarding program activities of unit, section, division or bureau in order to provide program direction by relieving superior of variety of difficult administrative duties & formulate and implement program policy, or to do all of the preceding & supervise assigned staff.

The record supports a finding that the Frazier Health Center qualifies, at a minimum, as a large unit for organizational purposes. Further, we have found, above, that Appellant's duties include those of a complex and difficult nature, which she likely performs for far more than the 20 percent required by O.A.C. 123: 1-7-15.

The real delineating point for DAS in this case is, according to DAS, that Appellant does not formulate program policy, as required by both the Series Purpose and Class Concept language pertinent to PA 2. It is, again, understandable why DAS has reached this conclusion; for clearly much of Appellant's day does not include performing this function.

Yet, the record, while mixed, does support a finding that Appellant both formulated and is still integrally involved in the implementation of PCI's program policy concerning hazardous waste disposal.

Further, O.A.C. 123: 1-7-15 does not require that an entire relevant 20 percent of an incumbent's duties consist exclusively of formulating program policy, as long as that formulation is demonstrably present; since this duty set also includes

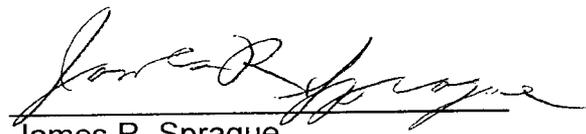
implementation of program policy. As well, that 20 percent includes many of the duties that Appellant performs on a daily basis as PCI's Assistant Healthcare Administrator.

Accordingly, it appears that Appellant's position qualifies for the Program Administrator 2 classification.

Yet, should this Board determine that Appellant did not, in fact, formulate PCI's hazardous waste disposal policy *or* should this Board determine that Appellant's formulation of that program policy fails to constitute sufficient program policy formulation to qualify under O.A.C. 123: 1-7-15's 20 percent requirements, then it would be entirely appropriate for this Board to affirm DAS' job audit determination that placed Appellant's position in the Administrative Professional 3 classification and in the bargaining unit pertinent to that class.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the instant job audit determination of the Department of Administrative Services and, accordingly, **RECLASSIFY** Appellant's position as Program Administrator 2, 63123, pursuant to R.C. 124.03 and R.C. 124.14.


James R. Sprague
Administrative Law Judge

JRS: