

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Barbara Berta,

Appellant,

v.

Case No. 2013-REC-09-0249

Bowling Green State University,

Appellee,

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 a clerical error resulted in the word "or" appearing in the instant Recommendation, where the word "of" should have appeared.

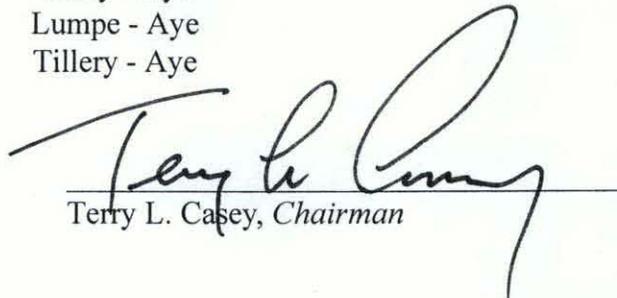
Wherefore, it is hereby **ORDERED** that Appellee's audit determination is **AFFIRMED**, pursuant to R.C. 124.03 and R.C. 124.14.

Casey - Aye

Lumpe - Aye

Tillery - Aye

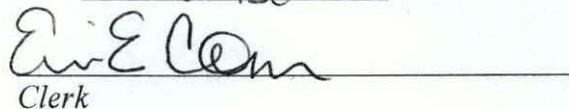



Terry L. Casey, *Chairman*

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, November 20, 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**

Barbara Berta

Case No. 2013-REC-09-0249

Appellant

v.

September 24, 2014

Bowling Green State University

Christopher R. Young

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on to be heard at the record hearing on February 19, 2014. Present at the hearing was the Appellant, Ms. Barbara Berta, presently classified as an Administrative Assistant 1, classification specification number 63121, who appeared *pro se*. The Appellee, Bowling Green State University, was present through its designee, Ms. Leslie Fern, an Employment/Employee Relations Specialist, who was represented by Mr. Timothy M. Miller and Ms. Alexis K. Chancellor, Assistant Attorneys General. Further, the Appellant's supervisor, Dr. Kit Chan, Chair of the Mathematics and Statistics Department, was also present at the hearing and offered testimony, as well.

On or about June 20, 2013, the Appellant, Ms. Barbara Berta, requested a job audit of her position as an Administrative Assistant 1, classification specification number 63121. On or about September 9, 2013, the Appellant, Ms. Barbara Berta, received the results of the audit request which notified her that her proper classification for her position was that of an Administrative Assistant 1. After receiving the job audit results, the Appellant timely filed her appeal to this Board on or about September 16, 2013. It should be noted that the aforementioned was stipulated to, as well as, the subject matter jurisdiction of this Board was established.

Before proceeding onto the record hearing, the Appellant, Ms. Barbara Berta, stated that although she is presently classified as an Administrative Assistant 1, she is seeking to be reclassified to the position of Administrative Assistant 2, classification specification number 63122.

STATEMENT OF THE CASE

The first witness to testify was the Appellant, Ms. Barbara Berta, who is presently classified as an Administrative Assistant 1 in the Department of Mathematics and Statistics at Bowling Green State University, a position she's held since September 2011. When questioned, the witness testified that Dr. Kit Chan was her supervisor during the relevant time period in question for the previous three years, and that she supervises two full-time equivalent employees, a Secretary 2 and a Typist 2, along with six (6) student employees. (See Appellee's Exhibit 5). Upon further questioning, the witness testified that as a supervisor she approves leave time, effectively recommends discipline, issues performance evaluations, trains and acts on behalf of the Chair on committees at various times. Further, the witness explained that she typically works Monday through Friday, from 8 AM to 5 PM, and that she graduated from the BGSU with a degree in Restaurant Management, along with stating that her overall job responsibility is to help the Department run efficiently and smoothly.

When questioned, the witness identified Appellant's Exhibit 1(A) as a classified staff job analysis questionnaire which she filled out on June 25, 2013, when requesting the audit. With respect to the time spent and the frequency of her job duties, tasks and responsibilities, the witness stated that approximate 30% of her time spent overseeing schedule development with respect to undergraduate studies, as well as graduate studies, three times a year. The witness explained that she coordinates and inputs the schedules into the system in conjunction with the Assistant Chair, Registration/Records, Dean's office and any outside departments for the combined courses. Ms. Berta testified that she would set the capacity and wait lists, add rooms, times, instructors, change requests, and run enrollment reports when setting the schedules. Further, the witness testified that she would also request book orders from the instructors and submit those orders online at the bookstore website, as well. The witness also explained that she would run queries for registration for the entire Arts and Sciences College, as well. Further, the witness testified twice a month she would approve payroll for the office classified staff and student employees and semiannually she would update the telephone list and distribute that list to the faculty, staff and graduate students. Moreover, the witness testified that she would also add/remove faculty/instructors from Pinnacle and ITS computer asset inventory and ensure that outgoing faculty/instructors/grad students turn in their keys, return borrowed books, along with re-signing office numbers, request key and telephone information to be assigned. Additionally, the witness testified that weekly she would also request information from faculty to schedule events, and generate and distribute weekly calendars were departmental faculty meetings, seminars colloquiums and speakers, along with gathering information

from speakers to reimburse their travel expenses, duties which the Appellant described as running the business office side of things in the Department.

With respect to the next grouping of time spent and the frequency of her job duties, tasks and responsibilities, the witness stated that approximate 30% of her time is spent generating and organizing reports, such as the Web library report (the operating budget) that runs on the seventh of the month wherein she has to verify expenses to tie out the month's expenses and report balances, receiving a Foundation report for 14 different accounts to verify and balance both the incomes and expenses of the foundation, along with reconciling the Pinnacle telephone monthly report. The witness explained that the operating budget which the Mathematics and Statistics Department controls is with respect to faculty travel, graduate travel, any honorariums, subscriptions, equipment and speaker/speaker travel expenses.

The witness testified that the next 10% of her time is spent managing faculty/instructor hiring process and the submitting of those Mathjobs. The witness explained that she follows the CAS collegiate personnel policies checklist, along with placing job ad with Mathjob.org, access a list of applicants and files from Mathjob.org secure website; input applicant information into the HRMS in CSS, along with notifying applicants if they are selected or not.

Ms. Berta explained further that 5% of her time is spent obtaining startup equipment for new faculty were she would process orders with ITS for new computer request, and initiate the purchase of the equipment needed for the faculty, as well.

Additionally, the witness testified that approximate 15% of her time is spent processing payments on a weekly basis for travel faculty, reimbursements and colloquium speakers and file paperwork in FMS (financial management system) to verify/process P card transactions, notify Chair to approve, and file receipts according to University policy. Moreover, the witness stated purchase orders that are generated over \$500, a receiver must be assigned, and all other orders are made sure that invoices are properly attached with the purchase order. Moreover, the witness explained that 5% of her job duties are spent submitting work order requests, tracking results from faculty and staff regarding the computer, telephone, office or building problems such as building maintenance on a monthly basis. The witness also explained that on annual basis she purges files and prepares for the next fiscal year per document structure retention schedule, along with attending training sessions that amount to approximate 6% of her time spent performing her job duties and/or tasks.

Upon further questioning, the witness testified that with respect to her audit questionnaire package she left out the fact that she does provide supervision to two full-time equivalent employees along with six student employees, as well as performing Ombudsman's duties. The witness also identified Appellant's Exhibit 1B that evidenced that she in fact works with the maintenance department and oversees the painting contract, any engraving and basically any office management issues that arise.

The witness identified Appellee's Exhibit 1 as a classification specification with an effective date of July 30, 2013 of an Administrative Assistant 1. When questioned, with respect to each and all of the essential/primary duties the witness explained that she performed each and every one of these, without question.

The witness identified Appellee's Exhibit 2 as a classification specification with an effective date of July 30, 2013 of an Administrative Assistant 2. When questioned, the witness testified that the essential/primary duties she does oversee budget operations including the operational budget, but not the personnel and project budgets. However, the witness testified she does reconcile monthly expenses, processes invoices, and orders supplies for the department, as well as prepares check requests and travel/expense reimbursements; maintains records and assist with the needs for asset inventory and key requests; assists the department and in maintaining expenditure control and fiscal accountability and makes recommendations for reallocation of budget dollars. Further, the witness testified that she does manage office administration auxiliary functions, including both routine and non-routine activities; interprets, develops and implements procedures and policies, as well as opens, reviews and routes or responds to correspondence for the Chair, at times. The witness also testified that she researches and analyzes data to write or edit reports, presentations and/or policies, as well as researching and responding to questions from students, staff faculty and the general public in order to resolve certain administrative problems. Ms. Berta testified that she also coordinates meetings and special events, wherein she schedules and secures meeting locations and teleconference capabilities; prepares agendas and other documents for distribution, as necessary. Further, the witness testified that she attends departmental meetings and retreats; drafts and post minutes of the meetings, as well as preparing and sending surveys, reports and evaluations out, when necessary. Moreover, the witness testified that she does supervise student workers and staff and serves as a indication liaison with other university offices and other institutions of higher learning; transmits decisions and directives, as well as editing and proofreading office materials and publications as part of her job. Additionally, the witness testified that she does maintain certain documentation, personnel files, contracts, appointments and other records for the Department as part of her job, as well. When asked what a personnel action form was or contained, the witness could not answer with specificity, and therefore her

testimony revealed that she does not really coordinate any human resource function for the department, nor did she assist in the development of any position descriptions. Although the witness testified that she does work with search committees on candidate selection and interview schedules, she does not prepare and/or monitor annual salary increases as directed, nor did she complete any necessary paperwork for human resources.

Upon questioning by Appellee's counsel Mr. Miller, the witness testified that she was on the Building Committee and the Emergency Management Committee as part of her duties. With respect to working on course development, the witness explained that she would work with the Assistant Chair, and that he would actually decide on the courses. Moreover, with respect to ordering books, the witness explained that the instructor would decide which books to be utilized, but she developed the form in which this was to be used, wherein she mainly relied on the faculty decide what books were to be ordered. Additionally, with respect to the amounts allocated in the operational budget, the witness explained that the Chair had to request that of the Dean, if needed, would ask to move an allocated budgeted amount to one fund or to the other. Additionally, the witness explained that she would track various developmental funds for each faculty member, if allocated. The witness then identified Appellant's Exhibit 4 E, as Bowling Green State University's Faculty Position Recruitment Plan Checklist which she described her involvement in the hiring process. The witness explained that she would supply the checklist to the college making sure the right forms were present, went to the right person, and were eventually collected and given back to the right people for processing. Ms. Berta testified that she would send correspondence on behalf of the Chair, send a standard thank you letter, send a proof of employment document, sent a sorry not hired letter, a curriculum modification letter and/or fee waiver forms as part of her duties. Although, the witness explained she helps prepare the agenda for the hiring committee, she explained that as far as interviewing potential candidates, the witness testified that is not what she performed, as that is completed by the committee which she was not a member, nor did she recruit applicants themselves.

As part of her duties with respect to researching and analysis, the witness explained that students will often ask what their status was, or whether they were a sophomore, junior or senior, which she had to extrapolate. Further, the witness explained students will often come in with questions with respect to how they would change their advisor or what their prerequisites were for their degrees, which needed to be researched and analyzed, as well. When questioned as to her role with any human resource functionality, the witness testified that she did not develop any position descriptions, nor did she coordinate any human resource function for the department, other than preparing the agenda for hiring individuals.

The second witness to testify was Dr. Kit Chan, the previous Chair of the Department of Mathematics and Statistics, who is presently on administrative leave, but was the Appellant's direct supervisor during the relevant time period in question. Specifically, when questioned, if the Appellant's testimony regarding her job duties and/or responsibilities were accurate, Dr. Chan answered in the affirmative, as he was in the hearing room and heard the same. However, the witness stated that he had a few things to clarify with respect to her testimony. With respect to the operating budget, the witness explained that the personnel budget is different than the faculty budget, which is totally controlled by the Dean's office. The witness explained that under the operating budget, under student employment, Ms. Berta oversaw a budget of approximately \$16,500, to hire tutors, mentoring instructors and student employees. When questioned about researching and analysis, Dr. Chan testified that with respect to the policies regarding travel and professional development that they both talk it over, but that he has the final, "say so". The witness testified that in summer period Ms. Berta would research and analyze what classes needed to be added or and/or dropped and present this information to the Assistant Chair. Further, the witness testified that Ms Berta would go with him to the College of Arts and Sciences with respect to the budget, and help explain to him what areas needed to be cut and/or added. With respect to the building committee, the witness testified that Ms. Berta's role was to represent himself as the Chair, along with stating that he doesn't talk to the bookstore at all, as she performs this duty, along with he does not look up the numbers on the budget as she does this by herself. Further, when questioned, the witness explained that Ms. Berta set the policy on copier year usage, as this goes through a vendor. With respect to the P card, the witness testified while he doesn't have one, but he does approve purchases and that Ms. Berta reconciles those purchases. Dr. Chan also testified that Ms. Berta basically has a lot of input and responsibilities into the retention schedule and the destruction of records. With respect to the faculty tenure process, the witness explained that student input is needed and that Ms. Berta gathers the needed information and inputs into the system. The witness also affirmed when questioned that Ms. Berta has set a policy and procedure on textbooks regarding the ordering and buying of those textbooks, and how that process is to work.

The last witness to testify was Ms. Leslie Fern, an Employment/Employee Relations Specialist who has held her position for approximately the last eight years, and was the employee who completed the instant audit.

The witness then identified Appellee's Exhibit 7, as her September 9, 2013, the termination letter wherein it was found that Mr. Berta was properly classified as an Administrative Assistant 1.

The witness explained that she found that Ms. Berta was not researching and analyzing programs procedures and policies as called for in the classification

specification of an Administrative Assistant 2, noted as Appellee's Exhibit 4, the old classification specification, but only she was researching and analyzing materials, information with respect to programs and then making recommendations, as a main difference in making her recommendation. Further, with respect to the new classification specification of an Administrative Assistant 1, the first primary duty, and her opinion, wherein it shows that one must coordinate and oversee the day-to-day department administrative operations, was almost an exact fit of what she does. Additionally as called for in the classification specification of an Administrative Assistant 1, the witness noted that the second to last bullet point which states that one is to manage the business functions for the department, again was almost an exact fit of what the Appellant performs.

It was noted by the undersigned that pursuant to Ms. Fern's audit questionnaire analysis she found that the Appellant was performing the following duties:

- Overseas schedule/course development (e.g. input information into CSS, complete schedule development and report packet, run reports, make changes to courses, order books).
- Generate and organize reports.
- Manage faculty/instructor hiring process.
- Implement policies and procedures (e.g. document instruction)
- Process payments (e.g. travel reimbursements, speakers, Falcon Purch etc.)
- Submit work order requests and track results for faculty and staff.
- Process order and initiate purchase of startup equipment for new faculty. Assign/reassigns office space for faculty, visiting scholars and speakers.

FINDINGS OF FACT

There were no real discrepancies between the Appellants' is characterization of the duties that she performed and those of the testimony of her direct supervisor, Dr. Kit Chan, the previous Chair of the Department of Mathematics and Statistics, who is presently on administrative leave. Therefore, I find as a matter of fact, the Appellant perform the duties about which she testified.

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, Ms. Barbara Berta, stated that although she is presently classified as an Administrative Assistant 1, (new 63121) (old 63121 C) she was seeking to be reclassified to the position of an Administrative Assistant 2, (new 63122) (old 63122 C) position. However, as noted by the undersigned Bowling Green State University, through its designee, Ms. Leslie Fern, an Employment/Employee Relations Specialist, found that the Appellant was properly classified as an Administrative Assistant 1. On the other hand, the Appellant believes that she should have been placed into the classification specification of an Administrative Assistant 2, (new 63122) (old 63122 C) position.

After a thorough review of the above mentioned classification specification, it is my recommendation that the Appellant was properly classified as an Administrative Assistant 1. Based on the findings set forth, above, and for the reasons set forth, below, it appears that Appellant's position was properly classified as an Administrative Assistant 1 (63121). Accordingly, this Board should affirm Bowling Green State University's job audit determination.

The Series Purpose/Position Summary language for the Administrative Assistant 1 (63121) provides for one to act as high level administrative support to an Administrator(s) and/or a Department to facilitate the daily operations of that Department. Additionally, one is to relieve supervisor of non-routine or routine administrative responsibilities; prepares correspondence and reports, maintains calendars, and monitors budgets for the Department; assist with personnel searches; develops and implements administrative policies related to department operations, while acting as a liaison.

The Series Purpose/Position Summary language for an Administrative Assistant 2 (63122) provides for one to act as a high level administrative support to an administrator(s) and/or department to facilitate the daily operations of the department, while performing work of a confidential nature while relieving department supervisors of non-routine or routine administrative responsibilities. Further, one is also supposed to research and analyze reports and make recommendations on follow-up actions; interprets, develops and implements department procedures and policies, as well as coordinating human resource functions for the department, while overseeing budget operations.

In analyzing the two above classification specifications of an Administrative Assistant 1 and 2, the two are very similar in many ways, except for the fact that Administrative Assistant 2 classification specification calls for one to research and analyze reports and make recommendations on follow up actions, as well as coordinating human resources functions for the department.

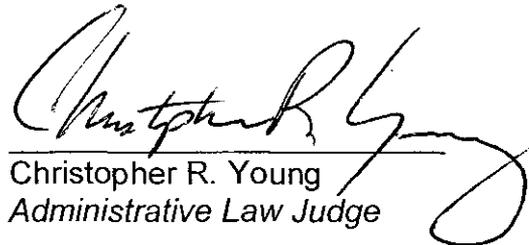
The testimony revealed that Ms. Berta did act as a high level administrative support to Dr. Kit Chan, facilitating the daily operations of the Department. Additionally, Ms. Berta did track the budget on the operations side of the Department, but not with respect to any Personnel budgets or Project budgets as called for in the classification specification of an Administrative Assistant 2. Moreover, the evidence revealed that Ms. Berta did not coordinate any human resource functions for the Department, as well. Additionally, the testimonial evidence revealed that Ms. Berta, through her own admissions, with respect to researching and analysis explained that students will often ask what their status was, or whether they were a sophomore, junior or senior, which she had to extrapolate. The undersigned found this explanation of performing research and

analysis to be tenuous at best, as this would easily be calculated by understanding the hours needed to be considered one or the other. Further, the witness explained students will often come in with questions with respect to how they would change their advisor or what their prerequisites were for their degrees, which needed to be researched and analyzed, as well. Again, the undersigned found the above noted activities as not something that she would actually prepare a report and make a recommendation, but by simply instructing and/or directing a student in finding and/or going to the appropriate party to be assigned a new advisor, who in turn would explain to them the required prerequisites to obtain their degree. Thus, as revealed by the evidence thereof, the undersigned Administrative Law Judge rejected the above noted classification specification of an Administrative Assistant 2, as not being an appropriate fit for the Appellant herein.

After reviewing Ms. Berta's testimony with regard to her job tasks and/or responsibilities it became apparent after reviewing the classification specification of an Administrative Assistant 1 it was almost an exact match of the duties that the Appellant performed. When reviewing the classification specification of an Administrative Assistant 1 provides for one to act as high level administrative support to an Administrator(s) and/or a Department to facilitate the daily operations of that Department. This is exactly what Ms. Berta performed in her job. Thus, the evidence at the record hearing revealed that the Appellant was appropriately placed into the classification specification of an Administrative Assistant 1.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** to the State Personnel Board or Review that the Appellant, Ms. Barbara Berta, was **PROPERLY CLASSIFIED** as an Administrative Assistant 1, during the relevant time period in question, and that they **AFFIRM** the Bowling Green State University's audit determination, and that the Appellant's appeal **DISMISSED**.


Christopher R. Young
Administrative Law Judge