

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

Patty Gray,

Appellant,

v.

Case No. 2013-REC-10-0327

Department of Job & Family Services,
and
Department of Administrative Services,

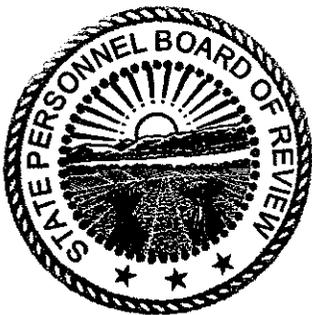
Appellees,

ORDER

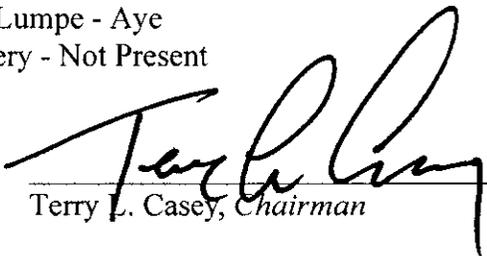
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Department of Administrative Services' decision is **AFFIRMED** and that Appellant's position be **RETAINED** in the Program Administrator 2 classification.



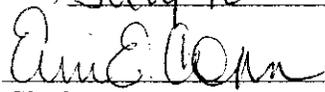
Casey - Aye
Lumpe - Aye
Tillery - Not Present


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, July 10, 2015.


Clerk

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

NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD. Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

METHOD OF PAYMENT: for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE July 17, 2015. You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

If you have any questions regarding this notice, please contact the Board at 614/466-7046.

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Transcript Costs: \$115.50 Administrative Costs: \$25.00

Total Deposit Required: * \$140.50

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: July 27, 2015

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

Patty Gray,

Case No. 13-REC-10-0327

Appellant

v.

May 20, 2015

Department of Job & Family Services,

and

Department of Administrative Services,

Appellee

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 and alleged reduction of her 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 Program Administrator 2, classification number 63213.

A record hearing was held in the instant appeal on June 16, 2014. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Job & Family Services (ODJFS) was present at record hearing through its designees, Project Manager 3 John Pendergast and Human Capital Management (HCM) Manager Nancy Jancso, and was represented by Senior Staff Attorney Nicole S. Moss; Appellee DAS was present at record hearing through its designee, HCM Senior Analyst Joanne Lucas.

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

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

Based upon the testimony presented and evidence admitted at record hearing, I make the following findings of fact:

Appellant Patty Gray is presently employed by Appellee Department of Job & Family Services (ODJFS) in a position classified as Program Administrator 2. Her position was reclassified in October 2013 as a result of Appellee Department of Administrative Services' (DAS) Management Analyst Supervisor (MAS) study. Appellant provided DAS with information regarding her job duties as part of the MAS Study.

Appellant's position is assigned to the Project Management, Quality Assurance, and Audit Section of the Division of IT Portfolio Management, which is part of ODJFS' Office of Information Services (OIS). She does not supervise any other employees. Appellant's immediate supervisor is John Pendergast, whose position is classified as Project Manager 3. The majority of Appellant's work is performed independently, with guidance from her supervisor as needed.

Appellant's primarily responsibility is to facilitate and track the OIS Audit Engagements Process. She serves as a liaison between state and federal auditors and OIS subject matter experts to ensure that requested information is provided in a timely manner. Appellant reviews and follows up on corrective action plans and any other remediation strategies arising from audit findings. She devotes approximately sixty percent of her working time to coordinating the Audit Engagements Process.

Appellant also coordinates the change process for agency-wide Internal Policies and Procedures (IPP). Where audit findings prompt a change in agency-wide IPPs, she works with OIS management staff to review and approve the proposed new policy and/or procedure at the departmental level before submitting it to the Office of Employee and Business Services (EBS) for agency-wide review and posting. Appellant periodically performs maintenance reviews and recommends changes to departmental Policies, Standards and Procedures (PSP).

Information gathered during the audit and remediation processes is used by Appellant's supervisor, John Pendergast, and other Project Management staff to

assist in the development of agency-wide project management standards and methodologies. Mr. Pendergast's focus is on quality metrics and process analysis and improvement.

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.

* * * * *

Appellant's position is presently classified as a Program Administrator 2, however, Appellant indicated at record hearing that she believes the classification of Program Administrator 3 more accurately describes her job duties. Accordingly, the classification specifications for both Program Administrator 2 and Program Administrator 3 were considered in conducting the review of Appellant's job duties.

The 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 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.

The parties do not dispute that Appellant performs, at a minimum, the duties of the Program Administrator 2 classification. Accordingly, I find that Appellant provides program direction by relieving her superior of administrative duties, and formulates and implements program policy.

Testimony at record hearing established that Appellant's primary job function is to coordinate the Audit Engagements Process. She monitors information requests and remediation plans to ensure timeliness and compliance. Although Appellant appears to have a great deal of independent responsibility for facilitating and monitoring the audit process, testimony failed to establish that she has responsibilities directly related to the analysis of information gathered through the audit process. Accordingly, I find that the tasks performed by Appellant on behalf of

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her superior are sufficient to comprise "difficult" administrative duties, but not "most difficult" administrative duties.

Appellant's job duties are most accurately described by the Program Administrator 2 classification. Therefore, pursuant to the authority granted to this Board by R.C. 124.03 and R.C. 124.14, I respectfully **RECOMMEND** that Appellee DAS' decision be **AFFIRMED** and that Appellant's position be **RETAINED** in the Program Administrator 2 classification.



Jeannette E. Gunn
Administrative Law Judge