

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Laura Rooney,

Appellant,

v.

Case No. 2013-REC-10-0360

Department of Health, and
Department of Administrative Services, Human Resources Division,

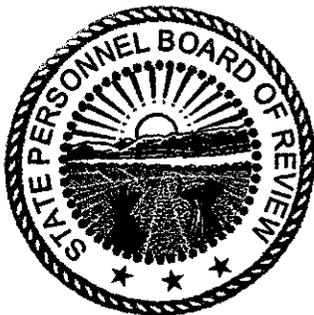
Appellees,

ORDER

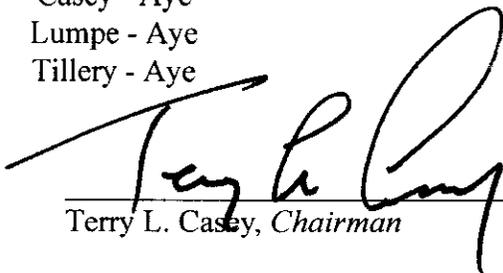
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 determination of Appellee Department of Administrative Services be **MODIFIED** and Appellant's position be **RECLASSIFIED** to Human Services Program Administrator 3, 69417, in accordance with R.C. 124.14 and 124.03.



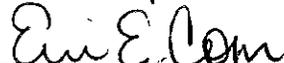
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, July 17, 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**

Laura Rooney,

Case No. 2013-REC-10-0360

Appellant,

v.

June 2, 2014

Department of Health and
Department of Administrative Services,

Appellees.

Beth A. Jewell
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

On October 22, 2013, Appellant, Laura Rooney, filed a Notice of Appeal from an October 11, 2013 letter to her from Appellee Department of Administrative Services (DAS), informing Ms. Rooney that as a result of the completion of Phase 2 of the Management Analyst Supervisor 1 and 2 study, her position would be reclassified effective October 20, 2013, from Management Analyst Supervisor 2, 63216, to the bargaining-unit position of Human Services Program Consultant, 69413, pay range 12. This Board has jurisdiction to hear Ms. Rooney's appeal under Ohio Revised Code section (R.C.) 124.14(D) and R.C. 124.03(A).

STATEMENT OF THE CASE

Ohio Administrative Code Rule (O.A.C.) 124-7-03 sets forth the procedure the Board is to follow in reclassification appeals and provides in relevant part as follows:

(A) The parties in appeals of reclassifications are the employee in the position to be reclassified, the employee's appointing authority, and the authority which conducted the position audit.

(B) The board shall conduct a fact-finding hearing to determine the duties performed by the employee in the audited position. The witnesses shall be limited to the audited employee, his immediate supervisor, and the designee of the authority who conducted the position audit, unless the board determines that there is substantial disparity in their testimony or other reason to believe their testimony is inaccurate. Examination of the

witnesses shall be conducted by the board, subject to further limited examination by the parties.

(D) The board shall compare the duties performed by the audited employee to the appropriate specifications and determine which classification most appropriately describes the duties performed by the employee.

(E) Evidence of disparity in the classification of co-workers is not admissible.

A record hearing was held on April 16, 2014. Ms. Rooney was present as was represented at hearing by John W. Herbert, Attorney at Law. Appellee Department of Health (ODH) was present through its designee, Mahjabeen F. Qadir, Senior Legal Counsel with ODH's Office of the General Counsel. Appellee Department of Administrative Services was present through its designee, Laura Sutherland. Testimony was presented by Ms. Rooney; her supervisor, Angela Norton; and Ms. Sutherland, the DAS Human Capital Management Senior Analyst who conducted Ms. Rooney's position audit. At the conclusion of the record hearing, Appellant's Exhibits A through I and Appellee DAS's Exhibits 1-7 were admitted into the record, and closing arguments were presented. The testimony and exhibits form the basis for the Findings of Fact below.

FINDINGS OF FACT

Appellant, Laura Rooney, has a master's degree in public health (MPH) and has been employed by ODH for four and one-half years. Ms. Rooney reports to Angela Norton, Health Planning Administrator 3. Ms. Rooney spends eighty-five (85) percent of her work time managing the Ohio Adolescent Health Partnership (OAHP), an organization whose mission is to advance and promote the safety, health and wellness of Ohio's adolescents. The OAHP provides leadership for local and statewide efforts to make progress in identified priority areas of adolescent health. OAHP works with the Ohio Department of Education (ODE) to eliminate non-academic barriers to adolescents' success in school.

Ms. Rooney authored OAHP's by-laws. (Exh. A) Ms. Rooney provided input into the development and served as editor of OAHP's published Strategic Plan 2013-2020. (Exh. B) Ms. Rooney works with two adolescent medicine physicians, who are co-chairs of the OAHP, to implement OAHP's strategic plan. The strategic plan identifies five priority

adolescent health issues: behavioral health; injury, violence and safety; reproductive health; nutrition and physical activity; and sleep. (Exh. B) Ms. Rooney presides over OAHP meetings and facilitates decision-making and policy and procedure development. Ms. Rooney provides support and guidance to the physician co-chairs. Ms. Rooney is ultimately responsible for OAHP's Operational Plan, ensuring that the partnership is working and that the goals and objectives of the strategic plan are implemented. (Exh. C)

Ms. Rooney reviews and provides guidance on proposed legislation. For example, Ms. Rooney has offered guidance on proposed legislation related to adolescent health, health education, and food service and safety in afterschool programs. Ms. Rooney serves as ODH liaison to ODE and has presented draft model policy language to the state board of education. (Exh. G) Ms. Rooney serves as liaison on practices and policies across state agencies for youth with behavioral health issues who are Medicaid recipients. Ms. Rooney studies how youth connect with state agencies to receive healthcare services, and she analyzes the gaps. Ms. Rooney also works with local Family and Children First Councils throughout the state.

Ms. Rooney provides policy guidance and subject-matter expertise to state and national organizations. For example, Ms. Rooney provides expertise on state level practices to reduce chronic disease through school systems to the National Association of Chronic Disease Directors School Health Council. Ms. Rooney represents ODH on the Governor's Start Talking Youth Drug Prevention Initiative. Ms. Rooney provides guidance to the Buckeye Healthy Schools Alliance to help school districts implement wellness policies. In August 2013, a national organization, Directors of Health Promotion and Education, invited Ms. Rooney to testify at a Congressional briefing that was scheduled for October 2, 2013. The purpose of the briefing was to inform and advocate for the efficacy of school health programs funded through the federal Centers for Disease Control and Prevention (CDC). (Exh. D) The briefing was canceled because of the federal budget-related sequestration.

Ms. Rooney serves on the CDC-ASCD Consultation Group on designing the next iteration of Coordinated School Health (CSH). Ms. Rooney was asked to join this group by Sean Slade, the Director of Whole Child Programs at ASCD (Association for Supervision & Curriculum Development). This national consultation group is launching a Whole School, Whole Community, Whole Child model that is recommended as a strategy for improving students' health and learning across the United States. Ms. Rooney was invited to join the group as an expert in the fields of CSH and public health. (Exhs. E, F)

CONCLUSIONS OF LAW

When determining the most appropriate classification for an Appellant coming before it, this Board must review relevant classification specifications to determine which classification best describes the Appellant's actual job duties. Ford v. Ohio Department of Natural Resources (1990), 67 Ohio App.3d 755. In making this determination, the Board considers the job duties outlined in the classification specification, as well as the percentage 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 WL 54277. O.A.C.123:1-3-01(D) provides that the duties being performed must satisfy the class concept or function statement at least twenty (20) percent of the time unless another percentage has been stated in the class concept or function statement. 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.

Appellant proposed, through her attorney's opening statement, that she is more appropriately classified as a Program Administrator 3, 63124, pay range 14. However, as explained below, the series purpose of the Program Administrator series precludes its use for Appellant's position because the Human Services Program classification series specifically addresses the functions of Appellant's position. The Program Administrator series purpose provides in relevant part as follows (emphasis added):

At the first level, incumbents relieve superior of non-routine administrative duties & formulates & implements program policy or does all of the proceeding & supervises assigned staff. At the second level, incumbents relieve superior of variety of difficult administrative duties & formulates & implements program policy or does all of the proceeding & supervises assigned staff. At the third level, incumbents relieve superior of most difficult administrative duties & formulates & implements program policy or does all of the proceeding & supervises assigned staff.

Note: This series may be used within agency/institution &/or in community setting.

This classification series may not be used to cover any functions currently described by another existing classification specifically designed for the function.

The series purpose of the Human Services Program classification series provides in relevant part as follows:

The purpose of the human services program occupation is to develop, coordinate & implement human services programs which provide direct or indirect services to the public or institutionalized persons. At the lower levels, incumbents implement human services programs or act as program/project consultant. At the higher levels, incumbents supervise or administer human services programs & formulate & direct implementation of human services program policies, procedures, goals & objectives.

Note: A human services program is any program designed to address clients' financial, functional, emotional, medical or nutritional needs or any programs designed to directly affect the delivery of such services by service providers (e.g., development of client &/or provider eligibility standards &/or other governing regulations, but excludes programs designed solely for hearing appeals from clients &/or service providers) or for health care promotion/disease prevention or for all functions in the Ohio Department of Job & Family Services' Office of Medicaid.

By letter dated October 11, 2013, DAS reclassified Ms. Rooney to the lowest level in the Human Services Program series, Human Services Program Consultant. The class concept for Human Services Program Consultant provides as follows:

The advanced level class works under direction & requires thorough knowledge of human services or related field & program techniques in order to act as program consultant for assigned number of projects, providers or counties, or assigned region or district, or on statewide basis for particular category of service/issues, or to special planning committee/council by performing three or all of following duties: provide technical assistance, monitor & evaluate through onsite visits, telephone contact &/or printed surveys for compliance with

state plan, standards, grant funding &/or for quality assurance, assist in developing &/or presenting health care promotion or educational activities & materials, &/or assist in assessing & planning or plan & coordinate service delivery.

By contrast, the class concept for Human Services Program Administrator 3 provides as follows (emphasis added):

The third level management class works under administrative direction & requires thorough knowledge of social or behavioral science or comparable field & applicable federal/state regulations in order to direct & coordinate district or regional human services program function & supervise program supervisors, *or to formulate & direct implementation of human services program policies, procedures, goals & objectives having statewide impact*, or to plan & administer activities of one bureau having statewide impact & supervise subordinate program or supervisory personnel, or to plan, implement & administer medical cost containment program (i.e., only one position per agency) & all related activities for one agency & supervise assigned staff or in ODJFS, perform one of the preceding duties or plan, direct & oversee statewide guidance to counties &/or providers to ensure compliance with state & federal laws, rules & regulations (e.g., development of business requirements & processes that meet client & provider needs to facilitate statewide program delivery; monitoring statewide system &/or program usage & issues to ensure consistent application within all counties &/or adherence to performance expectations; programmatic & related fiscal requirements under partnership & other agency agreements for allowable program reimbursements & serve as liaison with the Office of Fiscal Services in management of program funds; compliance reviews, enforcement actions & development of corrective action plans) & supervise assigned staff.

Through the evidence she presented, Ms. Rooney has demonstrated that her job duties substantially satisfy the class concept and classification specification of Human Services Program Administrator 3, 69417, pay range 14. Ms. Rooney satisfies this class concept more than twenty percent of the time. O.A.C. 123:1-3-01(D).

The mission of the OAHP, "to advance and promote the safety, health and wellness of Ohio's adolescents," identifies OAHP as a "human services program" as defined in the series purpose of the Human Services Program classification series, quoted above. Therefore, Ms. Rooney's position is not eligible for placement within the Program Administrator classification series. Ms. Rooney's position is properly within the Human Services Program classification series, and a higher level in this classification series most appropriately describes the duties performed by Ms. Rooney.

Rather than working "under direction" at the Human Services Program Consultant level, Ms. Rooney works largely independently and on behalf of ODH. Ms. Rooney spends eighty-five (85) percent of her time managing the Ohio Adolescent Health Partnership, a human services program with statewide impact. Ms. Rooney is responsible for the program's policies, procedures, goals and objectives. To satisfy this class concept, it is not required that Ms. Rooney supervise subordinate employees. Ms. Sutherland acknowledged at record hearing that a close reading of the classification specification for Human Services Program Administrator 3 leads to the conclusion that the third management level class in the Human Services Program classification series does not require supervisory duties when the incumbent administers a human services program that has a statewide impact.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the determination of Appellee Department of Administrative Services and **RECLASSIFY** Appellant's position to Human Services Program Administrator 3, 69417, in accordance with R.C. 124.14 and 124.03.


Beth A. Jewell
Administrative Law Judge