

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

Julie Darby Martin,

Appellant,

v.

Case No. 2013-REC-11-0307

Bureau of Workers Compensation,

and

Department of Administrative Services,

Appellees,

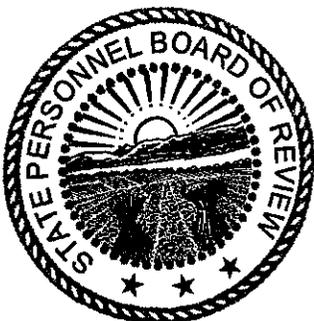
ORDER

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

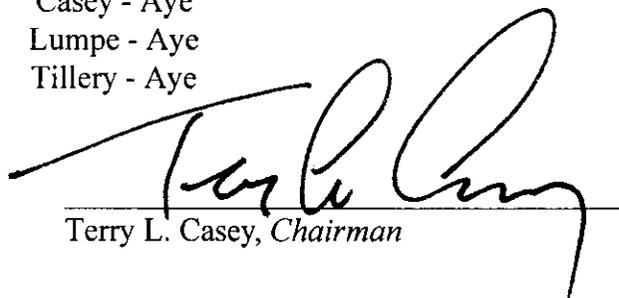
After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Findings of the Administrative Law Judge (ALJ) except as noted, below, and, so, must modify the Recommendation of the ALJ for the reasons set forth, below. The ALJ found that Appellee utilizes what may be described as a *de facto* planning office. Understandably, then, the ALJ found that the Planning Supervisor, 85315 Class provided an appropriate fit with Appellant's duties. Accordingly, the ALJ found that the Program Administrator (PA) 3 63124 Classification could not be utilized, because another Class (namely Planning Supervisor) specifically described the functions at issue.

We expressly find, herein, that Appellant does *not* head up a planning office, since the Bureau of Workers Compensation does not actually have a planning office. Thus, we are not constrained as the ALJ felt he was by the restrictive language contained in the PA Series. Since the Planning Supervisor Class does not factually describe Appellant's duties, this Board may, and does, determine that the Program Administrator 3 Class provides a legally sufficient fit with Appellant's duties.

Wherefore, it is hereby **ORDERED** that the Class Plan Review Determination of the Department of Administrative Services in this matter be **MODIFIED** and that Appellant's position be **RECLASSIFIED** to Program Administrator 3, pursuant to R.C. 124.03 and R.C. 124.14.



Casey - Aye
Lumpe - Aye
Tillery - Aye



Terry L. Casey, *Chairman*

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

Julie Darby Martin

Case No. 2013-REC-11-0307

Appellant

v.

June 18, 2014

Bureau of Workers' Compensation

and

Department of Administrative Services

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 May 13, 2014. Present at the hearing was Appellant, who appeared *pro se*. Appellee Bureau of Workers' Compensation (BWC) was present through its designee, Dee Seidenschmidt, Director of Personnel. Appellee Department of Administrative Services (DAS) was present through its designee, Morgan Webb, Human Capital Management (HCM) Senior Analyst. At the conclusion of the hearing, the parties were offered the opportunity to file written closing statements. On June 6, 2014, Appellant filed her optional written closing statement and accompanying documents. It appears that neither DAS nor BWC wished to file their respective optional written closing statements. Accordingly, the instant record closed on June 7, 2014.

This cause comes on due to Appellant's November 8, 2013 timely filing of an appeal from a DAS Class Plan Review Determination that was issued October 10, 2013, received October 11, 2013, and effective October 20, 2013. Appellant's position was previously classified as Management Analyst Supervisor 2, 63216 (Pay Range 14) and has now been reclassified to Planning Supervisor, 85315 (Pay Range 13 – Step X). Appellant believes that Program Administrator (PA) 3, 63124 (Pay Range 14) or Project Manager, 63381 (Pay Range 15) are Classifications that better describe Appellant's job duties.

Jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

At hearing, four witnesses testified.

First to testify was **Appellant, Julie Darby Martin**, whose position is currently classified as Planning Supervisor.

Next to testify was **Carol Morrison**, Manager of Outreach Programs and Services for BWC's Business Development Department under the Division of Safety and Hygiene. Ms. Morrison serves as Appellant's immediate supervisor.

Next thereafter to testify was **Abe Al-Tarawneh**, Superintendent of BWC's Division of Safety and Hygiene. Dr. Al-Tarawneh serves as Ms. Morrison's supervisor and has frequent and significant contact with Appellant during Appellant's working day.

Last to testify was **Morgan Webb**, DAS HCM Senior Analyst, who was familiar with and who testified concerning DAS' Class Plan Review Determination that is the subject of the instant appeal.

Joint Exhibits 1. through 4. constitute the Class Plan Review submissions from Appellant, Appellant's supervisor, and a BWC management designee.

In Joint Exhibit 1., under the instruction: "Briefly describe the purpose of your position in 1-2 sentences in the box below:" (emphasis added), Appellant wrote the following:

Administer, develop and manage production of statewide annual workplace safety and workers' compensation conference and exposition for 5,000+ representatives from over 3,000 businesses and 25 state agencies, by directing 200 contract exhibitors, 30 program committees with 200 professional volunteers representing various industries and organizations, 150 safety education sessions/workshops, 30 educational liaisons, safety innovation competition, 50 onsite production staff, 10 contract vendors, 9 professional accreditation organizations, 4 hotels, and 8 BWC departments, with \$250,000 exposition/advertising revenue, \$100,000 professional development value to BWC, \$1.1 million market value to stakeholders and \$1.3 million economic impact to host city. Develop, evaluate, analyze and update short- and long-term goals/objectives for conference/exposition based on agency mission, stakeholder feedback, staffing, budget action plans and timelines; formulate and

implement policies and procedures to meet and ensure compliance of conference/exposition statewide goals.

Testimonial and documentary evidence in the record indicate that Appellant essentially plans and runs BWC's *annual Ohio Safety Congress and Exposition*, on behalf of her supervisor and her division Superintendent. Appellant indicated that this planning, administration, and evaluation activity runs on a *continuing* 15-month cycle.

This statewide conference and exposition has been held for the last five years at the Greater Columbus Convention Center. The event utilizes approximately 65,000 square feet of exhibition space.

It is the largest event of its kind in the country. It provides learning experiences and networking opportunities for thousands of attendees and has a demonstrable positive revenue value to BWC as well as a positive public relations/professional development value to BWC.

The principal goals of the conference are to assist employers: to prevent accidents in the workplace; to reduce Worker's Compensation costs; to return injured workers to work as quickly as possible; and to reduce the severity of injuries if they do occur.

The conference generates revenue to offset costs of the programs and provides BWC and the participants with an opportunity to see emerging trends and technology that can help to prevent injuries and illnesses.

On BWC's Table of Organization (Joint Exhibit 6.), Appellant supervises two full-time employee positions and three college intern positions.

The record reflects that BWC sees significant value in this conference and exposition, which is a recurring event. Further, the record reflects that BWC intends to foster and grow the conference into the foreseeable future.

The record indicates that Appellant develops and administers the *policy* regarding utilization and administration of booth space at the Congress. The record also reflects that, along with technical advisors and managers of other programs that are involved, Appellant jointly develops *policy* regarding BWC's industry specific safety program.

Appellant also testified that she performs evaluation, analysis, and review of the Congress and Exposition for her supervisor and Superintendent; at the conclusion of the afore-mentioned 15-month cycle for same.

Appellant reports directly to her supervisor, Manager of Outreach Programs and Services Carol Morrison. Yet, for a significant percentage of her time, Appellant performs work directly on behalf of Division of Safety and Hygiene Superintendent Abe Al-Tarawneh.

Based on the testimony presented and evidence admitted at hearing and upon the optional written closing statement and accompanying documents submitted by Appellant, I make the following Findings:

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

I also find that Appellant has accurately stated her duties, including in her recitation set forth in Joint Exhibit 1.

The parties have indicated, and I find, that Appellant promulgates programmatic policy both individually and jointly.

I also find that Appellant performs a variety of difficult duties on behalf of both Ms. Morrison and Dr. Al-Tarawneh (qualitative component). Appellant also performs a large volume of work (quantitative component).

Additionally, the parties agree, and I find, that Appellant has performed effective supervision over two full-time positions and over several college intern positions.

CONCLUSIONS OF LAW

This case presents this Board with the question of whether Appellant's position is most properly classified as **Planning Supervisor, Program Administrator 3**, or **Project Manager 1**? Based on the findings set forth, above, and for the reasons set forth, below, this Board should find that the Planning Supervisor Classification is the most suitable eligible Classification for Appellant's position. Thus, this Board should affirm DAS' instant Class Plan Review Determination.

Appellant's position is currently classified as **Planning Supervisor**, 85315 (Pay Range 13).

The Series Purpose for the Planner Series 8531 (in which the Planning Supervisor Specification falls) states: "The purpose of the Planner occupation is to formulate and implement plans for scientific, technical or professional programs and/or projects."

The Class Concept for Planning Supervisor states:

The supervisory level class works under general direction & requires extensive knowledge of planning principles in technical, scientific or professional field in order to supervise assigned personnel & administer activities of planning office, section, bureau or division.

Clearly, the Planning Supervisor is expected to plan (and to supervise planning) at a fairly high level and is expected to have extensive knowledge of planning principals.

Appellant appears to have exhibited such extensive knowledge. Further, Appellant clearly plans the Ohio Safety Congress and Exposition and effectuates that planning through utilization of her staff.

While BWC does not appear to have a *formal* planning office, Appellant's duties and those of her supervised unit seem to parallel our expectations regarding how such an office would appear and function. Thus, we may find that Appellant effectively operates out of and supervises a planning office; in planning for and also administering the planning of the Congress and Exposition.

Accordingly, the Planning Supervisor Class appears to be a good fit with Appellant's overall job duties.

Appellant has also requested that the **Program Administrator 3**, 63124 Class (Pay Range 14) be considered.

The Series Purpose language for the Program Administrator 6312 Series (in which the Program Administrator 3 Specification falls) contains the following restriction: "This classification series may not be used to cover any functions currently described by another existing classification specifically designed for the function."

The Planning Supervisor Specification does appear to properly describe the functions Appellant performs. Accordingly, no Specification in the Program Administrator Series may be used for Appellant's position.

Yet, even if we assume, for the sake of argument, that the Planning Supervisor Specification does *not* describe the functions that Appellant currently performs, the Program Administrator 3 Specification would still be unavailable for consideration. This is because Appellant performs a variety of "difficult" (*but not "most difficult"*) duties on behalf of her supervisor and Superintendent, which is a requirement set forth in the Program Administrator 3 Class Concept.

(We do note parenthetically that Appellant does formulate and implement program policy. However, that is a requirement for all three levels of the Program Administrator Series and not just for the PA 3.)

Appellant has also requested that the **Project Manager**, 63381 Class (Pay Range 15) be considered. [We take administrative notice that, effective May 4, 2014, the Project Manager 1 and the IT Project Manager 1 duties were segregated, with the IT Project Manager 1 Specification carrying the Class Number 63384.]

The Series Purpose language for the Project Manager Series contains a Glossary. "Project" is defined in that Glossary as:

A temporary stand-alone assignment that has a definite beginning and end and is undertaken to create a unique product or service.
"Temporary" is not to be construed as being a short period of time.

The Ohio Safety Congress and Exposition cannot at this point accurately be described as a unique product or service. It *is* the largest event of its kind in the country.

Yet, the Safety Congress has been in existence for a number of years and there is nothing in the record, indeed the converse, to suggest that BWC has any plans on the horizon to dismantle or deactivate it. Further, Appellant's 15-month work cycle is directed toward preparing and effectuating each and every Safety Congress.

Accordingly, we cannot find that Appellant's planning and executing of every Congress is a temporary stand-alone assignment; nor can we find that the annual Congress is a unique product or service having a definite beginning and end. Thus, the Project Manager 1 Specification cannot be applied to Appellant's position and duties.

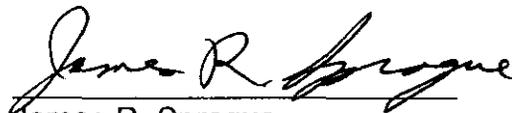
In summary, the Planning Supervisor Specification provides a good fit with Appellant's duties. Conversely, the Program Administrator 3 and the Project Manager 1 Specifications cannot be considered for Appellant's position; because

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those Specifications contain restrictive language in their respective Class Concepts that bars us from considering them for Appellant's position.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the **Class Plan Review Determination** of the Department of Administrative Services that Appellant's position be **RECLASSIFIED** to Planning Supervisor, 85315, pursuant to R.C. 124.03 and R.C. 124.14.

A handwritten signature in black ink, reading "James R. Sprague". The signature is written in a cursive style with a horizontal line underneath the name.

James R. Sprague
Administrative Law Judge