

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Gina Mee,

Appellant,

v.

Case Nos. 2013-REC-11-0336
2013-RED-11-0337

Department of Job & Family Services, and
Department of Administrative Services, Human Resources Division,

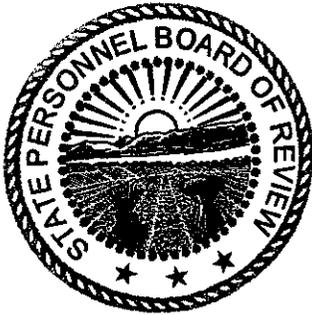
Appellees,

ORDER

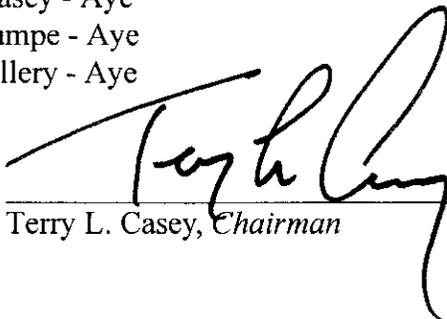
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

After a thorough examination of the entirety of the records, 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 Class Plan Review Determination of the Department of Administrative Services that Appellant's position be reclassified to Training Officer, 64652, 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, June 18, 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
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Gina Mee,

Appellant

v.

Department of Job and Family Services

and

Department of Administrative Services,

Appellees

Case Nos. 2013-REC-11-0336
2013-RED-11-0337

April 10, 2014

James R. Sprague
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

These causes came to be heard at hearing on March 18, 2014. Present at the hearing was Appellant, who appeared *pro se*. Appellee Department of Job and Family Services (DJFS) was present through its designee, Bob Pourmoghadam, ODJFS Program Administrator 2 (who also serves as Appellant's supervisor) and was represented by Nicole S. Moss, Senior Staff Attorney. Appellee Department of Administrative Services (DAS) was present through its designee, Joe Ann Lucas, Human Capital Management (HCM) Senior Analyst.

These causes come on due to Appellant's November 8, 2013 timely filing of appeals following notification that, pursuant to a DAS Class Plan Review Determination, Appellant's position was being reclassified from Management Analyst (MA) Supervisor 2, 63216, to Training Officer, 64652, which placed Appellant in the pertinent bargaining unit, effective October 20, 2013. (Pursuant to an agreement reached between DAS and AFSCME/OCSEA, the MA Series was deleted from the State of Ohio's Class Plan.) Appellant believes the Training Supervisor, 64655 Class or the Training Program Manager, 64656 Class would be more appropriate for her position and duties.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

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At hearing, three witnesses testified. First to testify was **Gina Mee, Appellant**. Next to testify was **Bob Pourmoghadam**, ODJFS Program Administrator 2 and Appellant's supervisor. Last to testify was **Joe Ann Lucas**, HCM Senior Analyst.

Appellant serves in DJFS' Office of Local Operations. (Please see Joint Exhibit G., the Office's Table of Organization) Appellant's immediate supervisor in Bob Pourmoghadam, ODJFS Program Administrator 2, who oversees the Central Administration unit of the Office. He answers to Deputy Director (DD) Julie Smith (a DD 6), who oversees the Office. DD Smith answers to one of DJFS' Assistant Directors.

Appellant has served as the Office's Training Coordinator since 2006. Prior to the 2011 reorganization of the Office of Local Operations, Appellant principally reported to DD Smith; now she reports to Mr. Pourmoghadam.

Appellant continues to assist the Offices' Executive Team, which includes DD Smith, Mr. Pourmoghadam, and DD 5s Mary Benton and Lisa Watson. Appellant sometimes still receives assignments from them, but now only attends meetings with the Executive Team on a monthly basis.

Appellant conducts training for DJFS' Call Centers, their Processing Centers, and their One-Stop Centers. She assesses and fulfills or coordinates the fulfillment of training and team building needs. She noted that she often works with exempt managers and supervisory teams within the various offices of DJFS served by Local Operations. She works with pertinent managers to assist with their team building needs, receiving calls from managers on a daily basis.

Appellant emphasized that she designs and delivers training solutions. She works with various personnel to develop, for example, a mediation program for a work unit.

Appellant emphasized that most of her work is done for work units outside of the direct purview of her Office. Appellant also emphasized that her interaction with supervisors and managers often exposes her to confidential or sensitive information about members of the bargaining unit to which she now belongs. Appellant sees this as less than an optimum situation. She puts forth this situation as one

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argument for why she believes that providing her, again, with an exempt position would alleviate what she perceives as this problematic situation.

Appellant offered that she perceives the Training Officer Class to simply do programs and that this Class does not fully take into account the level of independence she enjoys in performing her duties under minimal daily active supervision. She noted that, understandably in her mind, training is not the expertise of Mr. Pourmoghadam, who is also responsible for labor relations, human resources, and the Office's purchasing, billing, and financial functions.

Appellant wondered who would take her position once she retired, contemplated for 11 months from the date of hearing. She stated there is no one else to do her job and it is a huge consulting job where she works with leaders even outside of DJFS. She offered that, even with the aforementioned 2011 reorganization, her duties have not changed. She also noted, for example, that she has assisted other agencies, including DAS and the Department of Insurance.

Appellant agreed that the Class Concept for Training Officer provides that the Training Officer independently assesses training needs and plans training activities. Yet, Appellant noted, these duties constitute only a small part of her overall duties. She additionally offered that she receives considerable direction from the DJFS Office of Employee and Business Services.

Bob Pourmoghadam testified that the Office of Local Operations is a large Office within DJFS, that it cannot be compared with smaller Offices, and that it has Centers throughout the State. He referenced training for soft skills, conflict resolution, and generally bringing people together. He stated that Appellant performs facilitation services and that, when managers in the regions and offices perceive a weakness, this may lead to Appellant's being assigned to facilitate delivery of resolution training.

He agreed with Appellant's assessment that her position might be better served if it were an exempt one, since Appellant is often exposed to situations where individuals are not getting along. He stated Appellant can pave the way so that these employees can get along; by providing them with the soft skills necessary for them to work together effectively.

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Joe Ann Lucas offered that Appellant listed as Appellant's principal duties serving as the training coordinator for the Call Center, Processing Center, and One Stop staff; assessing and examining these employees' training needs and advising them accordingly. She also noted that Appellant's working title is Training Coordinator for Local Operations. Ms. Lucas averred that DAS had received no evidence that Appellant formulates policy.

As such, Ms. Lucas stated, DAS placed Appellant's position in the Training Officer Class; consistent with O.A.C. 123: 1-3-01 (D); since at least 20 percent of Appellant's duties met the Class Concept for the Training Officer Class. Ms. Lucas reiterated that Appellant serves as the Training Coordinator for Local Operations and independently plans and delivers such training.

Ms. Lucas also commented on Appellant's and Mr. Pourmoghadam's expressed concern that Appellant's position would be better served by being an exempt position. Ms. Lucas responded that training needs could perhaps be better explained to Appellant in more general terms. She added that having its Training Officers exposed to sensitive or confidential information may be a matter best addressed by DJFS internally.

Ms. Lucas explained that the Training Supervisor Class requires the incumbent to supervise lower-level training and clerical staff, duties that, Ms. Lucas offered, Appellant does not perform. Ms. Lucas also indicated that the Training Program Manager Class is limited to employees of DAS and of the Department of Natural Resources (DNR).

Ms. Lucas stated that an employee's volume of work (*i.e.* the quantitative component) is not relevant when determining the most appropriate Class for the employee's position. Further, she averred, there is no requirement that a person in the Trainer Class Series must be supervised by a person in the next ascending level in that Class Series.

Based on 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.

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Next, I adopt the parties' submissions that a large majority of Appellant's work involves independently assessing training needs and fulfilling those same needs through providing or coordinating the requisite training. Finally, I note that Appellant does not supervise employees or formulate program policy.

CONCLUSIONS OF LAW

These cases presents this Board with the question of whether DAS properly reclassified Appellant's position to Training Officer, 64652, following DAS' system-wide Class Plan Review concerning the State's Management Analysts and MS Supervisors? Based on the testimony presented and evidence admitted at hearing, this Board should answer this question in the affirmative and, so, should affirm DAS' instant Determination.

Appellant's duties are essentially not in dispute. Those same duties fit squarely within the Class Concept for Training Officer, 64652.

Appellant's position cannot be reclassified to Training Supervisor, 64655, since Appellant does not supervise lower-level training and clerical staff.

Appellant's position cannot be reclassified to Training Program Manager, 64656, since incumbents in positions within this Class must serve either in DAS or DNR.

Finally, we recognize that Appellant and her supervisor have expressed a concern regarding the type of information involving bargaining unit members that may have been shared with Appellant. Yet, perhaps as Ms. Lucas suggested, this is a matter best addressed internally by DJFS at the appropriate levels.

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 Training Officer, 64652, pursuant to R.C. 124.03 and R.C. 124.14.


James R. Sprague
Administrative Law Judge