

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Carroll Cannon, III,

Appellant,

v.

Case No. 2013-REC-11-0365

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

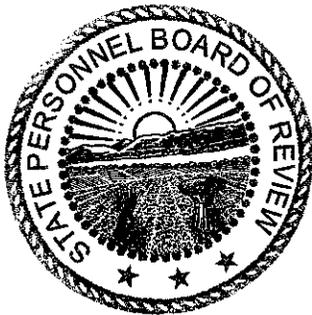
Appellees,

ORDER

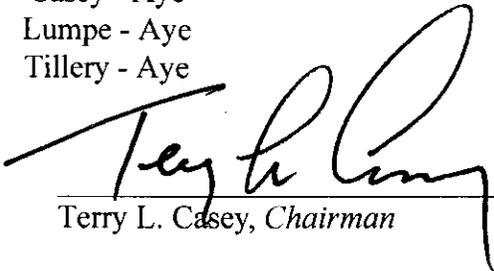
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 **CLASS PLAN REVIEW DETERMINATION** of the Department of Administrative Services be **MODIFIED** and Appellant's position be **RECLASSIFIED** to Program Administrator 2, 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 06, 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**

Carroll C. Cannon, III,

Case No. 2013-REC-11-0365

Appellant,

v.

September 30, 2014

Department of Administrative Services,

and

Department of Taxation,

Appellees.

BETH A. JEWELL

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This case came to be heard on August 11, 2014. Present at the hearing was Appellant, Carroll C. Cannon, III, represented by Marc E. Myers, Attorney at Law. Appellee Department of Taxation was present at the hearing and represented by Assistant Ohio Attorney General Timothy M. Miller. Appellee Department of Administrative Services (DAS) was present through its designee, Jeff Hazelton, Human Capital Management Analyst.

This case comes on due to an appeal timely filed by Appellant on November 1, 2013. That appeal was from a reclassification of his position from Management Analyst Supervisor 1 (63215) to the bargaining-unit position of Management Analyst (63211), effective with the payroll period beginning on October 20, 2013. This Class Plan Review Determination was a result of DAS's deletion of Appellant's former Class of Management Analyst Supervisor 1 from the State Class Plan. Appellant believes the Classification of Project Manager/IT Project Manager 1 would better fit his 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, three witnesses testified: Appellant, whose current classification is Management Analyst; Appellant's supervisor, Marina King, whose current classification is Program Administrator 3; and Jeff Hazelton, whose current classification is Human

Capital Management Analyst for the Department of Administrative Services. The following findings of fact are derived from the testimony of the witnesses.

Appellant has a bachelor's degree in psychology and an MBA. Throughout his years of work at the Department of Taxation and at his previous employers, he has worked toward and achieved several professional designations. In 2007, Appellant received a Project Management Professional ("PMP") certificate from Project Management International. To attain the PMP, Appellant completed training and experience hours and passed a four-hour examination. Appellant continues to complete ongoing training and experience requirements to maintain his PMP certification. In 2012, Appellant was awarded a LeanOhio Six Sigma Black Belt in Project Management. LeanOhio Six Sigma is a DAS-provided training program, open to both bargaining-unit and exempt state employees depending upon their experience, expertise, and background. Participants in the training can attain white, yellow, green, and black belts. Appellant and his supervisor are the only two black belt holders at the Department of Taxation. Appellant attended a four-week DAS training to achieve his black belt. Appellant also has an American Society of Quality certificate.

Appellant has worked for Appellee Department of Taxation for nine years. Appellant has been supervised by Program Administrator 3 Marina King since October 2013. Appellant and Ms. King are the two employees who work in the Process Improvement section of the Organizational Development division of the Department of Taxation. The Organizational Development division has two sections, Training and Process Improvement. Before July 2013, Appellant was working on the STARS program, which involved tax return processing. In July 2013, Appellant was transferred to Organizational Development, where he initially helped to create STARS training manuals and implement agency training. From July to October 2013, Appellant also assisted Ms. King on aspects of her process improvement work.

Since October 2013, Appellant's primary job responsibility is to work on agency process improvement projects. Utilizing a recently-created web-based Project Request Form, process improvement projects are requested by administrator- or deputy-level employees of the Department of Taxation. Ms. King and Appellant meet and discuss each request and consider whether to create a project to try to improve the process in question. Next, Ms. King, Appellant, or both of them will meet with the person who requested the project to gather more information. The requestor is referred to as the "project sponsor."

Process improvement projects do not have dollar figure or line-item budgets. The human resource time expended in working on the projects is considered the budget item. Examples of recent process improvement projects include reducing the average number of days required to process a sales and use tax refund; eliminating redundancies in state-mandated forms and creating efficiencies in form use across state

agencies; and improving payment processing in the revenue accounting area of the Department of Taxation while also planning for anticipated personnel retirements. The latter project is in its initial stages. Appellant has recently completed this project's charter, working with budget and fiscal area employee and project sponsor Michael Leary.

After the initial meeting with the project sponsor, a "project charter" is prepared and reviewed with the project sponsor for his or her approval. The project charter describes the process improvement being sought and includes a rough draft of the project's improvement goals. Working with the project sponsor, Appellant and/or Ms. King set a time frame for the project. To maintain momentum, projects are typically 8 to 10 weeks in length, although that can vary depending upon internal factors. Projects will not be rushed for the sake of a time line.

Once the charter is approved, Appellant and/or Ms. King will assemble a team of internal subject matter experts ("SMEs") who are familiar with the process in question. Once the SMEs are approved by Department of Taxation management to work on the project, Appellant and/or Ms. King will work with them, using LeanOhio and Six Sigma tools, to facilitate discussion designed to get to the root of the problem and its cause and identify a solution. Once a solution is identified, it is communicated to the project sponsor for implementation. Appellant or Ms. King then follow up with the project sponsor on the results of the implementation, and their work on the project is done.

In addition to working on process improvement projects, either on his own or with Ms. King, Appellant also acts for his supervisor and relieves her of difficult administrative duties by teaching a project management course at the Department of Taxation. This course was previously taught by Ms. King. The agency is considering making this an on-line course, and Appellant provided input on this topic. Appellant also serves as a mentor for new green and black belt employees at state agencies throughout Ohio. Appellant teaches a statistics course that is part of the DAS-provided LeanOhio Six Sigma training. All of these duties are part of Appellant's employment with the Department of Taxation.

ANALYSIS, DISCUSSION AND CONCLUSIONS OF LAW

This case presents this Board with the question of whether Appellant's position with the Department of Taxation should remain classified as Management Analyst or should be changed to Project Manager/IT Project Manager 1 or to some other more appropriate classification. Based on the findings set forth above, and for the reasons set forth below, this Board should find that Appellant's position is most appropriately classified as Program Administrator 2, and this Board should modify the decision of DAS accordingly.

The Class Concept for Management Analyst (63211) reads as follows:

The full performance level class works under general supervision & requires considerable knowledge of business or public administration in order to monitor & analyze operations, systems or procedures of assigned agency to determine needed improvements & research proposed programs, policies &/or legislation to determine feasibility or impact of implementation.

The Class Concept for Program Administrator 2 (63124) reads as follows:

The first administrative level class works under administrative direction & requires extensive knowledge of management principles/techniques, supervisory principles/techniques & agency policies & procedures regarding program activities of unit, section, division or bureau in order to provide program direction by acting for superior & by relieving superior of variety of difficult administrative duties & formulate & implement program policy, or to do all of preceding & supervise assigned staff.

The Class Concept for Project Manager/IT Project Manager 1 (66381/66384) reads as follows:

The first managerial level class works under direction & requires considerable knowledge of project management, life cycle methodologies & public policy management or public administration in order to manage project(s), with or without sub-projects, that covers all phases of project management, with activities & responsibilities resting primarily within one given office/program of assigned agency & whose primary stakeholders are management, staff &/or end users, direct delivery (i.e. does not require direct involvement of, but may be overseen by, higher-level authority of agency executives &/or political group) to end user/client (e.g., agency employees, outside agency, public customer) for operation/use, focus on testing, monitoring & modification of delivery to end user & direct, implement & monitor policy & ensure compliance.

The Project Manager class specification includes a glossary that provides the following definition:

Project: 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.

(Emphasis added.)

An employee seeking reclassification to a higher classification must demonstrate that his or her respective job duties substantially satisfy those of the higher classification. Mounts v. Ohio Department of Administrative Services, 17 Ohio App. 3d 125 (1984). This Board reviews the relevant classification specifications to determine which classification best describes the Appellant's actual job duties. Ford v. Ohio Department of Natural Resources, 67 Ohio App. 3d 755 (1990). However, this Board is not limited solely to the duties contained in the classification specifications, and may also embrace other relevant facts submitted by the affected parties. Gordon v. Ohio Department of Administrative Services (March 31, 1998), Franklin Co. 88AP-0122, unreported, 1988 WL37094.

It is the responsibility of this Board to determine which classification most appropriately describes the duties performed by the employee. Ohio Administrative Code Rule 124-7-03(D). Appellant accurately points out that the Management Analyst classification specification does not encompass his work with project sponsors and SMEs on process improvement projects driven by requests made by agency stakeholders. Furthermore, the Management Analyst classification specification places emphasis on monitoring agency operations, which is not a significant part of Appellant's work, and on researching proposed programs, rather than on improving programs themselves. Additionally, Appellant's work on behalf of his supervisor is not encompassed by the Management Analyst specification. The Management Analyst classification does not fully or accurately describe Appellant's actual job duties.

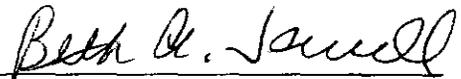
On the other hand, the Project Manager classification is not an appropriate fit either. To qualify for the Project Manager class series, an employee must complete temporary projects on a consistent basis. For purposes of this class series, a "project" is defined as a temporary stand-alone assignment that has a definite beginning and end *and is undertaken to create a unique product or service*. The record reflects that Appellant's duties involve short-term assignments undertaken to analyze existing processes and to determine whether these processes can be made more efficient. While both Appellant and his supervisor employ project management methodologies in their process improvement work, the process improvement projects on which they work are not "projects" within the meaning of the Project Manager classification series because their projects are not undertaken to create a unique product or service.

Accordingly, the Project Manager classification series is not appropriate for Appellant's current job duties.

While no classification specification is a perfect fit for Appellant's duties, considering the evidence in the record, and particularly considering the collaborative nature of the work performed by Appellant and his supervisor, as evidenced by Ms. King's testimony, the Program Administrator classification series is recommended as that which most appropriately describes Appellant's duties. Ms. King is a Program Administrator 3. The record reveals that Appellant possesses vast knowledge of management principles. Appellant's work involves providing direction for the Process Improvement section of the Organizational Development division by implementing the process improvement program, which is the primary task of this section. The evidence reveals that Appellant relieves his supervisor of a variety of difficult tasks through his work on the process improvement projects and his work in teaching a training course previously taught by his supervisor. Therefore, because the scope and nature of the job duties performed by Appellant are most accurately described by the job description and Class Concept of Program Administrator 2, this Board should reclassify Appellant's position.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the **CLASS PLAN REVIEW DETERMINATION** of the Department of Administrative Services and reclassify Appellant's position to Program Administrator 2, pursuant to R.C. 124.03 and R.C. 124.14.



BETH A. JEWELL
Administrative Law Judge

BAJ: