

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Scott Hootman,

*Appellant,*

v.

Case Nos. 2013-REC-11-0372  
2013-RED-11-0373

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

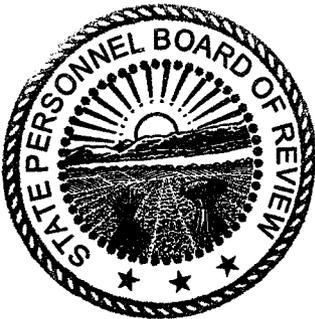
*Appellees,*

**ORDER**

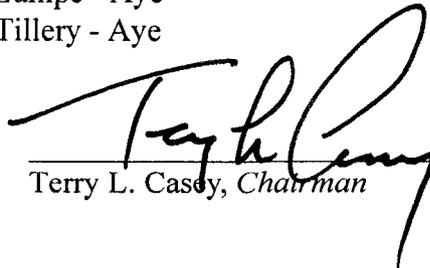
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 Management Analyst, 63211, is **AFFIRMED**, pursuant to R.C. 124.03 and 124.14.



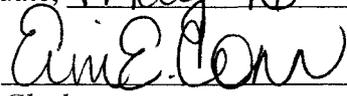
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
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, May 16, 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**

Scott Hootman

*Appellant*

v.

Case Nos. 2013-REC-11-0372  
2013-RED-11-0373

April 18 , 2014

Department of Transportation

and

Department of Administrative Services,

*Appellees*

James R. Sprague  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

These cases came to be heard on April 14, 2014. Present at the hearing was Appellant, who appeared *pro se*. Appellee Department of Transportation (DOT) was present through its designee, Janet Treadway, Data Administration (DA) Manager and Appellant's supervisor. Appellee Department of Administrative Services (DAS) was present through its designee, Laura Sutherland, Human Capital Management (HCM) Senior Analyst.

These causes come on due to Appellant's November 4, 2014 timely filing of appeals following notification that, pursuant to a DAS Class Plan Review Determination, Appellant's position was being reclassified from Management Analyst Supervisor 1, 63215, to Management Analyst, 63211, which placed Appellant in the pertinent bargaining unit, effective October 20, 2013. (Pursuant to an agreement reached between DAS and AFSCME/OCSEA, the MA Supervisor 1 and 2 Classifications were deleted from the State of Ohio's Class Plan.) Appellant believes the Program Administrator (PA) 2, 63123 Classification would be more appropriate for his position and duties.

Jurisdiction over the subject matter of these appeals 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. First to testify was **Scott Hootman, Appellant**. Next to testify was **Janet Treadway**, DA Manager, Appellant's

supervisor and DOT's designee at hearing. Last to testify was **Laura Sutherland**, HCM Senior Analyst, and DAS' designee at hearing.

**Appellant** serves in DOT's Division of Construction Management (CM), which is located at DOT's Central Office in Columbus. Appellant currently serves in a position classified as Management Analyst. His immediate supervisor is Janet Treadway. She served "functionally" as Appellant's supervisor (*i.e.* previous to the finalization of her paperwork) in March, 2013 and she has served "effectively" (*i.e.* officially) in that capacity since April, 2013. Ms. Treadway reports to Deputy Director (DD) Paul Brad Jones, who heads the Division. DD Jones reports to Assistant Director Jim Barna, who in turn reports to Director Jerry Wray.

Prior to Ms. Treadway's assumption of supervision over Appellant's position, Appellant reported to Gary Angles, a Transportation Engineer 5. Mr. Angles participated in the DAS Class Plan Review that ultimately led to the decision to give Appellant's position the current MA Classification.

Appellant stated that one principal duty that he now performs (but that he had not yet begun to perform at the time of DAS' review) is serving as DOT's designee on the National Technical Review (NTR) Team Board. Appellant averred that he performs this function from 1:30 to 3:00 p.m. on Tuesdays and Thursdays, in other words for three hours of each work week (slightly greater than 13 percent of the time).

Joint Exhibit A. is a compilation of the input offered by Appellant, his then-supervisor, and DOT management concerning the afore-mentioned DAS Class Plan Review.

In that document, Appellant breaks his duties down (with the exception of his NTR Team Board service), as follows.

Overview:

Serve as an agency manager for ODOT's SiteManager Construction Management System, gather and analyze data for the Deputy Director of Construction pertaining to the Bi-Monthly Capital Program and Critical Success Factors. Provides training to department personnel in SiteManager as well as answering any questions from within the department or our external customers.

Appellant goes on to provide a detailed list of essential duties assigned and performed, breaking them down into 12 duty sets. The initial description of each

duty set, and the percentage of time Appellant has assigned to each duty set, are set forth, below.

"Produces monthly Critical Success Factors reports and data analysis." (10 percent)

"Produces Bi-Monthly Capital Report Program." (10 percent)

"Administers statewide steel, fuel and asphalt binder price adjustment files and website." (10 percent)

"Create SiteManager and other defined queries from GQL databases." (10 percent)

"Oversees SiteManager email account." (15 percent)

"Administers Technical Process Reviews." (10 percent)

"Administers SiteManager training statewide." (five percent)

"Answers email and phone calls from our external customers." (five percent)

"Supervise the Construction Reference Resource Center website." (five percent)

"Supervise the District Practice Tracker document for Construction Management." (five percent)

"Summarizes changes to the Construction and Materials Specifications as well as the Construction and Inspection Manual of Procedures." (five percent)

"Administer SiteManager Construction Management System-" (10 percent)

In its Preamble to the parties' Joint Exhibits, DAS offers the following explanation and analysis.

In accordance with OAC 123:1-3-01 (D), duties being performed by an employee must satisfy the class concept at least 20% of the time. In this case, the employee prepares Critical Success Factor reports and multiple other reports and documents that involve running and creating numerous queries, filtering and analyzing data. He monitors, researches and troubleshoots internal and external questions and provides training in operating the construction management computer system. He also administers the technical process reviews to evaluate if the contractor's work is in close conformity to the specifications and if [sic] the inspection performed by the district's

Scott Hootman

Case Nos. 2013-REC-11-0372 and 2013-RED-11-0273

Page 4

project staff. The class concept for the Management Analyst states: 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 employee's duties are consistent with this class concept and are performed at least 20% of the time. This is reflected in statements made by the employee, supervisor, and management designee in the documents provided. In conclusion, the position is properly classified as Management Analyst. (emphasis added)

Appellant stated at hearing that he formulates program policy. He listed a variety of instances where he believes this is the case.

Appellant indicated he drafts policies and procedures for SiteManager and for how its users should operate. The Executive Management and AD Jim Barna sign off on these drafts and Appellant ensures that Ms. Treadway is also in the loop regarding these drafts.

Appellant indicated he writes business rules for Critical Success Factors and that same are submitted directly to AD Barna for approval.

Appellant indicated he is solely responsible for writing up policies and procedures for the Technical Process Review. Appellant also stated that he updated and completely re-did HT.401 regarding contract administration and that he authored the Technical Process Review form in 2014, with DD approval.

Appellant offered that he wrote the business rules for two categories under the Capital Program. Appellant completely re-wrote HT.201 here, he stated.

**Laura Sutherland**, HCM Senior Analyst and DAS' designee at hearing, testified that these appear to be more examples of business procedures and training materials designed to facilitate measurement of desired criteria; as opposed to department-wide program policies in a sequence that mandate or prohibit particular actions.

Ms. Sutherland also offered that Appellant's duties fall squarely within the MA Class Concept. She further averred that the Program Administrator, 6312, Series has language added indicating: "This classification series may not be used to cover any functions currently described by another existing classification specifically designed for the function." (emphasis added)

Scott Hootman

Case Nos. 2013-REC-11-0372 and 2013-RED-11-0273

Page 5

**Janet Treadway**, Appellant's current supervisor and DOT's designee at hearing, offered that Appellant's percentage breakdown of his duties may have minimized the importance of those duties concerning the overall success of the processes and measurements that Appellant oversees. She also noted that much of the work Appellant performs both directly and indirectly touches a number of DOT's external customers and constituencies. Indeed, she noted, some of the material that Appellant prepares finds its way into information reported out by DOT's Director.

Based on the testimony presented and evidence admitted, I make the following Findings:

First, I note that Appellant's Exhibits 1. through 6. and Joint Exhibits A. through E. are admitted into the record.

Next, I note that I incorporate, herein, any Finding set forth, above, whether express or implied.

As well, I adopt Appellant's presentation of the percentages and breakdown of his duties, including his duties performed on behalf of the NTR Team Board.

Finally, I find that Appellant relieves his superior of a variety of difficult and complex administrative duties.

### **CONCLUSIONS OF LAW**

These cases present this Board with the question of whether Appellant's position is more properly classified as Management Analyst, 63211 or Program Administrator 2, 63123? Based on the findings set forth, above, and for the reasons set forth, below, this Board should answer that the MA Class is the more appropriate Class for Appellant's position.

There is essentially no dispute among the parties that Appellant performs the duties set forth in the MA Class Concept, which is set forth on Page 4., above, in DAS' Preamble.

The dispute in the two instant cases arises concerning 1.) whether Appellant formulates and implements program policy and 2.) whether Appellant has overcome DAS argument that the language found in the PA Series' Series Purpose prohibits assigning any Class in the PA Series to Appellant's position.

Scott Hootman

Case Nos. 2013-REC-11-0372 and 2013-RED-11-0273

Page 6

It is a close call as to whether Appellant formulates and implements program policy and all sides in this matter offer persuasive arguments. The undersigned certainly understands DAS' position that Appellant's work is more analogous to formulating procedures and authoring training materials. Yet, given the possible agency-wide and statewide impact these items have, the general level of discretion Appellant enjoys in initially drafting these items, and the seemingly mandatory compliance they appear to demand, the undersigned is ultimately persuaded that Appellant does formulate and implement program policies, a necessary condition for holding a position with a PA 2 Class.

Yet, while formulating and implementing program policy is a necessary condition to hold a PA 2 designation, it is not a sufficient condition to do so. In these cases, Ms. Sutherland aptly noted that the PA Class Series contains a prohibition against using any Class in the PA Series, when the function at issue is currently described by another existing Class that is specifically designed to encompass that function (Please see Paragraph 2. of Ms. Sutherland's testimony, set forth, above, on page 5.).

Because the MA Class so aptly (albeit not completely) describes the vast majority of Appellant's duties, it appears DAS is correct to assert that we are prohibited from using the PA 2 Class under the circumstances covered in the two instant cases. Accordingly, it appears DAS' Determination in the two instant cases was entirely proper and, so, should be affirmed.

Parenthetically, should this Board determine that pertinent language, set forth in the Series Purpose section of the PA Class Series, does *not* so prohibit utilization of the PA Class Series in the two instant cases, then this Board should reclassify Appellant's position to PA 2.

### 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 Management Analyst, 63211, pursuant to R.C. 124.03 and R.C. 124.14.



James R. Sprague  
Administrative Law Judge