

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Amy Berger,

Appellant,

v.

Case No. 2013-REC-11-0374

Department of Transportation, and
Department of Administrative Services,

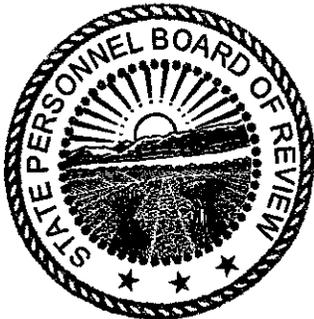
Appellees,

ORDER

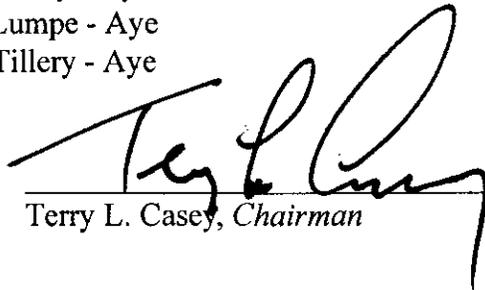
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the decision of the Department of Administrative Services is **AFFIRMED** as Appellant Berger is properly classified as a Program Administrator 2.



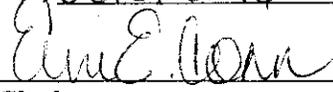
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, October 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**

Amy Berger

Case No. 2013-REC-11-0374

Appellant

v.

September 25, 2014

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

Appellee

Marcie M. Scholl
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on April 17, 2014. Present at the hearing were Appellant Berger, appearing *pro se*; Appellee Department of Transportation designee John Leatherman, Fiscal Officer 3; and Appellee Department of Administrative Services designee Jeff Hazelton, Human Capital Management Analyst.

The jurisdiction of the Board was established pursuant to sections 124.03 and 124.14 of the Ohio Revised Code.

STATEMENT OF THE CASE

Appellant Berger has been employed by Appellee Ohio Department of Transportation (ODOT) for approximately six years and is currently classified as a Program Administrator 2 due to the deletion of her previous classification of a Management Analyst Supervisor 1, which she was hired into. Her immediate supervisor is John Leatherman, a Fiscal Officer 3.

Appellant Berger testified she has no supervisory duties and works in the Cost Accounting and Inventory section. There are three employees who do inventory and she does the cost accounting. As such, she manages the cost accounting program, which consists of calculating overhead and damage to anything that is associated with a rate. Appellant Berger also oversees the federal billing. She stated there used to be three employees in cost accounting, but one employee retired two years ago and the other left for a new job, so as of January, 2014, she was the only person doing the job. Her duties changed as of that date, as she assumed two-thirds of the duties of the employee who retired and she stated there are no plans to fill the vacancies. Appellant Berger stated the questionnaires

she completed in August, 2012 and February, 2013, regarding her job duties, are still accurate.

Her most time consuming and important duty consists of calculating ODOT's overhead rate in order to obtain a true amount of the cost of an employee. That cost is then used in calculating cost saving measures and analysis. Appellant Berger explained that included in the overhead rate are such things as benefits, insurance, electricity, gas, unemployment, etc. The entire process takes her between five and five and one-half months and is done on an annual basis. The preparation consists of Appellant Berger laying out a plan of what to request, whom to request it from and when she needs it back. Some of the requests are sent to the Department of Administrative Services (DAS), Office of Budget and Management (OBM) and within ODOT. As an example, Appellant Berger stated DAS is responsible for the figures on the vehicle insurance. They send her back a total figure and she has to split it up between all the different kinds of equipment and their use. There are approximately 2,000 pieces of equipment that this has to be done for.

Appellant Berger also has to make sure all purchases are closed for the year in order to get the most up to date costs. She has to review the labor costs, square footage and determine how to allocate the central office staff. She explained that overhead rates are calculated for the districts, central office, engineering, and planning construction and the rest is portioned throughout the remainder. Appellant Berger opens a data warehouse system and opens one for buildings, warehousing and payroll. She questions anomalies, such as not considering aircraft as their cost is so high it skews the data. A spreadsheet was created a long time ago to do all of this work, but over the years, Appellant Berger has tweaked it. She comes up with totals for where an employee works and includes the cost of the highway management office and costs associated with the county. After that, she calculates rates, compares them to the previous year to determine if they have gone up or down and to analyze why the change. Appellant Berger analyzes all of the data, makes graphs, etc., and then presents it to the Director and deputies. She runs all of her work through her supervisor as a double check, but she gives the presentation to the deputies and then the Finance Deputy Director presents it to the Director. She stated she receives a lot of follow-up questions from the deputies wanting to know why their rates went up and she has to explain the data to them. Appellant's Exhibit Part 5 was identified by Appellant Berger as an example of the fy2014 fringe benefit rate showing all of the figures. She does a sheet like this one for all twelve districts, central office, planning, construction, engineering and statewide fuel, materials and garage.

Appellant Berger's second most time consuming duty is that of the transportation management system or TMS. It is a labor tracking system which is used by everyone in the department except for highway maintenance. It tracks the inventory used and the labor for all non-maintenance, engineering, geo-tech, test labs, etc. The employees track their hours and what activity they are engaging in. Each activity has a code and the employees enter this information each pay period and Appellant Berger then reviews and double checks to ensure the correct project is charged. She creates the codes and the activity codes and if there is an error, she independently fixes the error. She is one of four people statewide that can move an employee in and out of the system. She also does the system maintenance and keeps up with the bi-weekly reports.

In looking at Appellant's Exhibit 1, Appellant Berger explained these are tables of organizations with the ones in red signifying the programs which she currently manages. Some of them need to have codes which she will write and pull for cost comparison and overhead rates. Appellant's Exhibit 2 is an example of the support she provides to Highway Maintenance. Appellant's Exhibit 3 is a table of organization and spreadsheet which Appellant Berger created to show her supervisor. She testified Mr. Snyder oversees more of her work than Mr. Leatherman does. Appellant Berger stated there is a new system coming in which she has been working on. It is going to have equipment, inventory, highway, planning and construction on it and she wrote the billing and account codes for all of them, as well as the business rules which everyone in the state must use. She explained Mr. Snyder is the Accounting Administrator, which includes accounts payable, purchasing, inventory and cost accounting. In his absence, Appellant Berger stands in his stead with regard to cost accounting only. Appellant's Exhibit 4 explains how diverse the engineering field is and since she has no engineering background, she works closely with upper management to understand the technical duties of the engineering section. Appellant's Exhibit 5 consists of miscellaneous items which Appellant Berger felt were important to include in her documentation.

Appellant Berger testified she does not testify before the General Assembly but does provide data for their use. Prior to Mr. Leatherman being hired in November, 2012, Appellant Berger conducted staff meetings along with her supervisor for her section and the three employees in Inventory. She testified she assigns work to the district coordinators to investigate any questions she has in their data, such as why an employee's time is billed to construction when the work was done for a county. She has contact with the federal government on FEMA issues and works with the federal auditor on the federal billing rate. Appellant Berger stated she provides data for budget input, has no purchasing duties and does no hiring. She testified Mr. Snyder used to be in charge of cost accounting and inventory and he assigns her work on an as-needed basis, but does not give her daily work assignments.

John Leatherman testified he has been employed by ODOT for approximately eight years and is classified as a Fiscal Officer 3. He has supervised Appellant Berger since November, 2012. He stated there are plans to fill one other cost accounting position. He testified that the overhead rate calculation is double checked by another person in the group and that any anomalies are solved in conjunction with the Administrator. He explained that the new system Appellant Berger is working on is to have the codes automatically inputted into the system so she will not have to add them manually. Mr. Leatherman testified he is aware of what Appellant Berger does but he does not have the technical knowledge to come up with the rates and the other information she produces. He also testified Appellant Berger does not fill in for him when he is absent, as Mr. Snyder does that, and he does not assign any of his duties to Appellant Berger.

Jeffrey Hazelton testified he is employed by DAS in the office of Talent Management. He is familiar with Appellant Berger's reclassification as he did the analysis of her position. He stated that based on the information he reviewed, the best fit for her is a Program Administrator 2 and the class concept for that classification describes what she does. Mr. Hazelton stated Appellant Berger gives technical advice, reviews maintenance issues, writes tests, works on the TMS system, does revisions and coding, coordinates with her manager and communicates and presents updates to the deputies. She also writes policy. He testified she did not qualify for a Program Administrator 3 as she does not advocate for legislation, does not review proposals and does not assume responsibility in her Administrator's absence for his staff. He stated while there is no perfect fit, it was his determination that the best fit was that of Program Administrator 2.

FINDINGS OF FACT

Inasmuch as there was no discrepancy in the testimony of the witnesses regarding the duties performed by Appellant Berger, I find that the duties she testified to as well as those described in the questionnaires completed, are, in fact, the duties she performs.

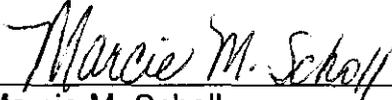
CONCLUSIONS OF LAW

After reviewing the duties performed by Appellant Berger and the pertinent classification specifications, the best fit is that of a Program Administrator 2. Many classifications were reviewed and none were a perfect fit. Appellant Berger performs a wide variety of duties and while some of her duties fit into other classifications, other of her duties did not. In determining in which classification to place an employee, this Board has to consider which classification concept best describes the duties of an employee.

Appellant Berger meets the class concept of a Program Administrator 2 in that she works under administrative direction, has thorough knowledge of the policies and procedures of cost accounting and formulates and implements policies regarding cost accounting. In looking at the job duties listed on the specification, she also analyzes and evaluates the cost accounting program, she establishes codes, develops the new EIMS system, provides technical advice to the users, researches and responds to inquiries, furnishes information to the deputies and to the director and prepares important documents.

Appellant Berger does not meet the class concept for a Program Administrator 3 in that she does not act for her supervisor and does not relieve her supervisor of the most difficult duties. Mr. Leatherman is Appellant Berger's supervisor and he testified he does not assign any of his duties to Appellant Berger and when he is absent, his supervisor, Mr. Snyder, takes over his duties. There was no testimony that Appellant Berger takes over Mr. Snyder's duties, as she stated in his absence, she does all of the cost accounting duties but does nothing with regard to accounts payable, purchasing and inventory, which are all under Mr. Snyder. Since Appellant Berger is the only employee doing cost accounting, which falls under Mr. Leatherman, she does those duties on behalf of Mr. Leatherman, who is in charge of cost accounting and inventory. In looking at the duties listed on the specification, Appellant Berger does not "assume full responsibility and authority in administrator's absence" does not "plan, directs and appraises work of administrator's office staff", she does not speak for administrator on policy matters, does not appear before the legislature and does not coordinate personnel services.

Therefore, it is my **RECOMMENDATION** that Appellant Berger is properly classified as a Program Administrator 2 and that the decision of the Department of Administrative Services be **AFFIRMED**.



Marcie M. Scholl
Administrative Law Judge