

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Donald E. Bowers, Jr.,

Appellant,

v.

Case No. 2013-REC-12-0396

Department of Rehabilitation & Correction, Central Office, and
Department of Administrative Services, Human Resources Division,

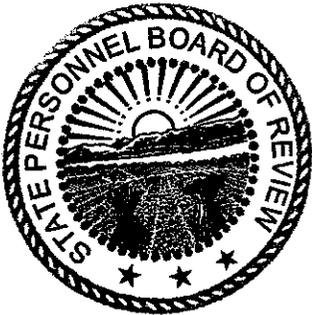
Appellees,

ORDER

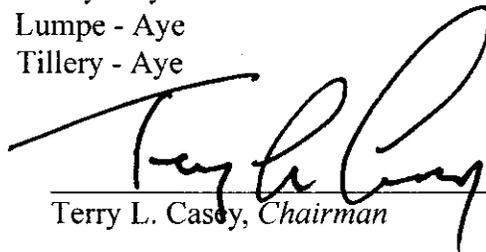
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 **DETERMINATION** of the Department of Administrative Services that the Appellant's position remain the same as an Account Clerk Supervisor is **OVERTURNED** and the Appellant's position be **RECLASSIFIED** to a Business Administrator 1, effective with the payroll period beginning on October 6, 2013.



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, July 17, 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**

Donald E. Bowers Jr.

Case No. 2013-REC-12-0396

Appellant

v.

May 28, 2014

Department of Rehabilitation & Correction,
Central Office

and

Department of Administrative Services,
Human Resource Division,

Appellees

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on April 9, 2014 at 10:00 a.m. Present at the hearing was the Appellant, Mr. Donald E. Bowers, Jr., presently classified as an Account Clerk Supervisor who represented himself *pro se* offered testimony at the record hearing, along with his immediate supervisor Mr. Craig Rich, a Business Administrator 3. The Appellee, the Department of Rehabilitation and Correction, Central Office, was present through its designee, Ms. Amy Parmi, Staff Counsel. Additionally, the Appellee, the Department of Administrative Services (DAS) was present through its designee, Mr. Darryl McFarlane, a Human Capital Management Analyst, who completed the audit also offered testimony at the record hearing.

On or about October 1, 2013, the Appellant, Mr. Donald Bowers Jr., requested a job audit of his position as an Account Clerk Supervisor, classification specification number 16515. On or about November 20, 2013, the Appellant, Mr. Donald Bowers Jr., received the results of the audit request which notified him that his proper classification for his position was that of an Account Clerk Supervisor. After receiving the job audit results, the Appellant timely filed his appeal to this Board on or about December 16, 2013. It should be noted that the aforementioned was stipulated to, as well as, the subject matter jurisdiction of this Board was established.

Before proceeding onto the record hearing, the Appellant, Mr. Donald E. Bowers Jr., stated that although he is presently classified as an Account Clerk Supervisor, he is seeking to be reclassified to the position of a Business Administrator 1, classification specification number 63315 or to the position of a Business Administrator 2, classification specification number 63316.

STATEMENT OF THE CASE

The first witness to testify was Mr. Donald Bowers Jr., an employee of the Ohio Department of Rehabilitation and Corrections, Southeast Correctional Complex located in Lancaster, Ohio. Mr. Bowers testified that he has held the position of Account Clerk Supervisor for approximately last three years, and that he was previously employed as Commissary Manager for the proceeding 13 years, along with being employed as a Corrections Officer for two years before working as the Commissary Manager. However, the witness explained that he is only been employed by the Southeast Correctional Complex since January 2013 because of the consolidation of the management of the Hocking Correctional Facility, that merged into the Southeast Correctional Complex. The witness noted that Hocking Correctional Facility still functions as a unit housing inmates, but that the management employees all merged into the Southeast Correctional Complex, which is located some 30 miles away. When questioned, the witness testified that Mr. Craig Rich, a Business Administrator 3, is his immediate supervisor, and that he currently has approximately 7 employees directly reporting to him.

The witness then identified Appellee's Exhibit 1, and noted the table of organization contained therein doesn't currently reflect the exact reporting structure within the Business Office. The witness testified that the other Account Clerk Supervisor's position is vacant as result of that person resigning, wherein he now currently supervises the Account Clerk 2 that had reported to him, thus bringing the total number of Account Clerk 2s that he supervises to three. When questioned, the witness testified that he does complete performance valuations, approves leave time, effectively recommends discipline, if needed and acts on behalf of his supervisor from time to time. The witness explained that when his supervisor is away from work he is usually put in charge, along with attending various executive staff meetings, when Mr. Rich could not attend. Further, the witness testified that the Business Office is divided into the Cashier's Office, that handles the majority of internal funds, such as inmate accounts, and the Business Office which handles external funds, such as paying the bills that come in to the agency. The witness testified that he primarily heads up the Business Office, wherein Mr. Rich oversees the Correctional Farm Supervisor, Aramark Food Service Operation, Plant Maintenance Engineering, the Penal Industries Manager, the Correctional Commissary, the Storekeeper Supervisors and the Business Office. However, the witness did note that he does take more of a supervisory role with respect to the

employees in the Correctional Commissary, Quartermaster, Laundry and Storekeeper positions, as Mr. Rich had delegated those activities to him that had been approved by the Warden. When questioned as to what the mission of his section is, the witness testified that they are there to take care of the financial transactions of the facility, including but not limited to, purchasing items and paying the bills, along with keeping all the inmates accounts straight. Moreover, when questioned, the witness testified that he is a full-time employee working on first shift and that he works at 40 hour flex schedule.

The witness was then questioned with respect to Appellee's Exhibit 1, the section that was completed by the employee with respect to his job duties and explained the following:

- 35% of his duties were spent reviewing and approving vouchers and requisitions, correct vouchers, update speed-charts (these are all OAKS financial transactions). Research and find solutions to OAKS FIN issues such as budget errors, purchase orders that will not dispatch, reversal and journal entries to fix issues.
- 4% of his duties were spent creating and entering data into Excel in order to track Hocking facility utility usage/spending.
- 25% of his duties were spent providing direction and answering questions for staff in the business office, warehouse, laundry, quartermaster and commissary.
- 12% of his duties were spent reviewing request to purchases submitted to the business office for compliance and accuracy. Apply proper coding, and sign off on the availability of funds for purchases.
- 2% of his duties were spent creating and updating Excel spreadsheet to track facility Grant Funds/expenses (recycling, energy conservation and trout farm).
- 1% of his duties are spent reviewing and entering data into the CACTAS for commissary staff, and assist them in making corrections to previous entries.
- 4% of his duties were spent assisting staff with procurement/financial/commissary/operational related questions and issues.

- 5% of his duties were spent approving purchases to be made by payment card and review/approve these transactions in OAKS to make sure we follow audit guidelines.
- 4% of his duties were spent corresponding with vendors to correct procurement/invoice issues and questions.
- 2% of his duties were spent acting as facility ADO on a monthly basis.
- 1% of his duties are spent completing staff performance evaluations.
- 3% of his duties were spent approving staff leave and time clock adjustments.
- 1% of his duties are spent completing, reviewing and submitting Budget Adjustment Requests for the facility.
- 1% of his duties are spent reviewing and submitting Equipment Justifications to obtain approval for Equipment Purchases.

With respect to each and every duty outlined above the witness testified that when he filled out the audit questionnaire back in October 1, 2013, he was performing these duties previous to that date, as well as on that date, and presently.

Next, the witness then identified the Account Clerk Supervisor classification specification, classification specification number 16515, as the position he currently holds. When questioned as to the job duties in order of importance, Mr. Bowers explained that he does supervise lower level account clerk staffing that support functions that prepare and process records, while summarizing financial transactions to ensure their completeness. Further, the witness testified that he also analyzes and oversees the preparation of invoices, encumbrances, remittances, vouchers, requisitions and auditing of accounts with respect time reports and/or inventory. Additionally, the witness testified that he also answers inquiries and requests to establish procedures to resolve problems while evaluating policies and procedures to make recommendations for the implementation and to ensure the efficient operation of the account clerk activities. Lastly, the witness testified he also does collect, analyze and prepare financial reports, along with performing a variety of related clerical tasks, as well. Overall, the witness testified that he performed everything under the Account Clerk Supervisor's classification specification.

The witness when questioned as to the Business Administrator classification series agreed that the series purpose of the Business Administrator occupation is to

plan, direct and/or coordinate all fiscal and support services operations for division, school agency or institution assigned. Further, under the series purpose of a Business Administrator, at the Business Administrator 1 and/or 2, incumbents either act as an assistant to higher-level business administrator or institutional deputy superintendent, or plan, direct and coordinate all fiscal and some or all support service operations for a small or medium-sized agency, school or institution and/or in community and supervise personnel.

With respect to the classification specification of a Business Administrator 1, the witness explained that within the job duties in order of importance he does act as an assistant to a Business Administrator 3, Mr. Craig Rich, although the specification calls for either a 2 or 3, in the overall management of the business office or plans, directs and coordinates all fiscal and support services operations and supervises the business office and/or support services employees.

With respect to the classification specification of a Business Administrator 2, the witness testified that he does not act as an assistant to a Business Administrator 4 or an Institutional Deputy Superintendent. Further, the witness testified he does not develop or participates in establishing policies and procedures for fiscal affairs and management information systems to be followed by all sections of the division, agency or institution, but does serve as a duty officer when required, prepares fiscal reports and attends meetings, if called on to do so.

Upon questioning by Ms. Parmi, the witness identified Appellee's Exhibit 2 as his current position description, which for the most part reflected the same duties as the Appellant had previously testified with the exception of different percentages of time.

Upon questioning by Mr. McFarlane, the witness explained that he in his section of the Business Office oversees all of the purchasing requests, along with all financial transactions at the institution, including accounts receivable, and within that he does plan, direct and coordinate the overall management of the business office. However, the witness testified he does not participate in budget forecasting and/or the like.

The next person to testify was Mr. Craig Rich, a Business Administrator 3, for the Department of Rehabilitation and Correction, Southeast Correctional Complex, and the immediate supervisor of the Appellant herein, a position he is held since June 2008. Specifically, when questioned, if the Appellant's testimony regarding his job duties and/or responsibilities were accurate, Mr. Rich answered in the affirmative, as he was in the hearing room and heard the same. Additionally, when questioned, the witness testified that since the consolidation of the management offices at Southeast correctional complex and the Hocking Correctional Facility Mr.

Bowers has stepped up to take on more duties, with the approval of the Warden. Specifically, when questioned, the witness testified that while the Appellant has three direct subordinate reports in the Account Clerk's, he also has individuals that he approves leave as follows; the Commissary employees, Storekeepers employees, Quartermaster employees and Laundry employees.

There were no questions asked by Mr. Parmi or Mr. McFarlane.

The last person to testify was Mr. Darryl McFarlane, a Human Capital Management Analyst, for the Department of Administrative Services, a position he's held the previous five years, and the person who performed the audit on the Appellant's position. The witness testified that after a thorough review of Mr. Bowers job duties and/or responsibilities he found that Mr. Bowers was properly classified as an Account Clerk Supervisor. The witness identified Appellee's Exhibit 1, approximate four pages into the exhibit, his audit findings and conclusions. When questioned, the witness explained that he found that Mr. Bowers should not be classified as Business Administrator 1, as he found that he did not act as an assistant to a Business Administrator 2 or 3 or Deputy Superintendent, nor did he plan, direct and coordinate all of fiscal support functions of the business office.

FINDINGS OF FACT

There were no real discrepancy between the Appellants' characterization and the duties that he performed and those of the testimony of his direct supervisor, Mr. Craig Rich, a Business Administrator 3, for the Department of Rehabilitation and Correction, Southeast Correctional Complex. Therefore, I find as a matter of fact, the Appellant performed the duties about which he testified.

CONCLUSIONS OF LAW

This Board is required to perform several functions when determining the most appropriate classification for an Appellant coming before it. The Board must always review relevant classification specifications to determine which classification best describes the Appellant's actual job duties for the pertinent period of time. *Ford v. Ohio Department of Natural Resources* (1990), 67 Ohio App. 3d 755. In making this determination, the Board considers the classification specification and the job duties outlined therein, as well as the percentages of time the Appellant devotes to each group of job duties. *Klug v. Ohio Department of Administrative Services* (May 19, 1988), Franklin Co. 87AP-306, unreported, 1988 WL54277.

As a general rule, the Appellant seeking a reclassification to a higher position must demonstrate that his or her respective job duties substantially satisfy those of

the higher classification. *Mounts v. Ohio Department of Administrative Services* (1984), 17 Ohio App. 3d 125; *Deist v. Kent State University* (May 23, 1987), Franklin Co. 87AP-28, unreported.

This Board must also consider the relation between the classification specifications at hand and the testimony presented and evidence admitted. This Board's consideration, however, is not limited solely to the duties contained in the classification specifications, but may also embrace other relevant facts submitted by the effected parties. *Gordon v. Ohio Department of Administrative Services* (March 31, 1988), Franklin Co. 88AP-0122, unreported, 1988 WL37094.

As previously mentioned, the Appellant, Mr. Donald Bowers stated that although he is presently classified as an Account Clerk Supervisor, he was seeking to be reclassified to the position of a Business Administrator 1 and/or a Business Administrator 2's position. However, as was noted by the undersigned, the Ohio Department of Administrative Services, through its designee, Mr. Darryl McFarlane, a Human Management Capital Analyst, found that the Appellant was properly classified as an Account Clerk Supervisor. After a thorough review of the above mentioned classification specifications, it is my recommendation that the Appellant was not properly classified as an Account Clerk Supervisor, but rather should be reclassified to a Business Administrator 1's position.

When reviewing the Series Purpose language for the Account Clerk classification series it reads as follows: "the purpose of the account clerk occupation is to provide clerical support associated with accounting functions that prepare, process and maintain accounting records and summarize business or financial transactions." Further, the Series Purpose language for an Account Clerk Supervisor (16515) reads: "at the highest level, incumbents supervise lower-level account clerks." Additionally, when reviewing the job duties of the Appellant herein it revealed that he did perform all the duties listed as an Account Clerk Supervisor. However, when reviewing the other classification specifications that were considered, specifically the Business Administrator 1 classification specification, that classification was a better fit. Thus, the classification specification of an Account Clerk Supervisor was rejected by the undersigned Administrative Law Judge.

Further, when reviewing the Series Purpose language for the Business Administrator classification series it reads as follows: "the purpose of the business administrator occupation is to plan, direct and/or coordinate all fiscal and support services operations were division, school, agency or institution assigned." Further, the Series Purpose language for a Business Administrator 1 and/or 2 reveals that an incumbent in these positions either act as an assistant to a higher level business administrator or institutional deputy superintendent, or plan, direct and ordinate all

fiscal and some or all support services operations for a small or medium-sized agency, school or institution and/or in community and supervise personnel.

With respect to the Business Administrator 2 classification specification, this classification was rejected outright as the Appellant herein did not answer to a Business Administrator 4, as called for in its class concept or in the actual duties in order of importance that were to be performed. Therefore, the classification specification of a Business Administrator 2 was rejected by the undersigned Administrative Law Judge as not being an appropriate classification for the Appellant to be placed into.

However, with respect to the Business Administrator 1's classification specification and job duties in order of importance revealed that one who holds position this position has to act as an assistant to a Business Administrator 2 or 3 or an institutional deputy superintendent in the overall management of the business office or plan, directs and coordinates all fiscal and support services operations, along with supervising business office and support services employees. The evidence revealed, contrary to the finding by the Department of Administrative Services, that the Appellant answered directly to a Business Administrator 3 and that he assisted his immediate supervisor in the overall management of the business office wherein he planned, directed and coordinated all fiscal and support services operations, along with supervising the business office staff, as well as others.

When deciding whether or not the Appellant was planning, directing and coordinating the fiscal and support services operations of the business office one has to simply look at the ordinary being of those words stated above. Nowhere does the classification specifications of a business administrator series define what is meant by plan, direct and coordinate all fiscal and some or all support services for a small or medium-sized agency or institution and supervise personnel. However, Black's Law Dictionary does define "plan" to mean:

... Also, a method of design or action, procedure or arrangement for accomplishment of a particular act or object. *Shainwald v. City of Portland*, 153 Or. 167, 55 P.2d 1151, 1156. Black's Law Dictionary at page 1150 (Deluxe 6th Edition 1990).

Further, Black' Law Dictionary does define "direct" to mean:

... To point to; guide; order; command; instruct. To advise; suggest; request. Black's Law Dictionary , at page 459 (Deluxe 6th Edition 1990).

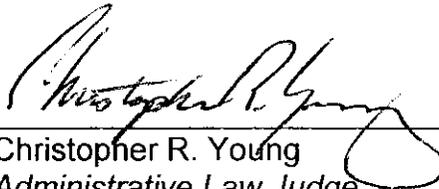
Furthermore, Black's Law Dictionary does define "coordinate" to mean:

... Equal, of the same order, rank, decree or importance; not subordinate. *Empire Ins. Co. of Texas v. Cooper*, Tex.Civ.App. 138 S.W.2d. 159, 164. Adjusted to, in harmony with. Black's Law Dictionary at page 335 (Deluxe 6th Edition 1990).

When reading the ordinary meanings of the above stated words contained within Black's Law Dictionary it is clear that the Appellant in the performance of his job duties and/or responsibilities planned, directed and coordinated the business office and its employees. Thus, in compliance with Ohio Administrative Code Section 123:1-3-01 (D) wherein the following class concept of a Business Administrator 1 is required to be performed, by the incumbent, at least 20% of the time, the same would hold true for the Appellant herein. Thus, the undersigned Administrative Law Judge concludes that the Appellant should have been reclassified to the Business Administrator 1 classification specification.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **OVERTURN** the **DETERMINATION** of the Department of Administrative Services that the Appellant's position remain the same as an Account Clerk Supervisor and **RECLASSIFY** the Appellant to be position of a Business Administrator 1, effective with the payroll period beginning on October 6, 2013.


Christopher R. Young
Administrative Law Judge