

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Yolanda Cooks,

*Appellant,*

v.

Case Nos. 2013-REC-10-0314

2013-RED-10-0315

Department of Rehabilitation & Correction,  
and  
Department of Administrative Services,

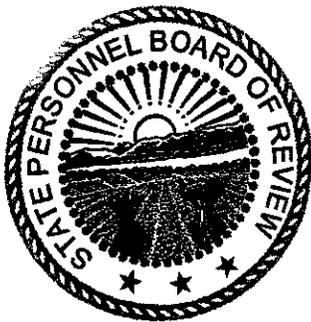
*Appellees,*

**ORDER**

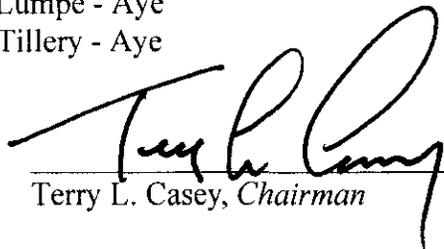
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 Appellant's position be **RECLASSIFIED** to Project Manager 1, classification number 63381, effective the payroll period beginning October 20, 2013.



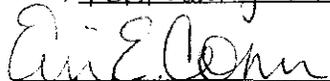
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
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, February 25, 2015.

  
Clerk

**NOTE:** Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.

## NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

**IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD.** Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

**METHOD OF PAYMENT:** for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

**IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE March 4, 2015.** You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then **YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.**

**If you have any questions regarding this notice, please contact the Board at 614/466-7046.**

Case Numbers: 2013-REC-10-0314 and 2013-RED-10-0315

Transcript Costs: \$87.00 Administrative Costs: \$25.00

Total Deposit Required: \* \$112.00

Notice of Appeal and Deposit Must  
Be Received by SPBR on or Before: March 12, 2015

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Yolanda Cooks,

*Appellant*

v.

Case Nos. 13-REC-10-0314  
13-RED-10-0315

December 11, 2014

Department of Rehabilitation & Correction,  
Central Office,

and

Department of Administrative Services,  
Human Resource Division,

*Appellee*

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on due to Appellant's timely appeal of the reclassification of her position. Pursuant to a study conducted by Appellee Department of Administrative Services (DAS), the classifications of Management Analyst Supervisor (MAS) 1 and 2 were removed from the state classification plan and incumbent employees' positions were subsequently reclassified. Appellant's position was reclassified from Management Analyst Supervisor 1, classification number 63215, to Contract Evaluator/Negotiator, classification number 66551, effective the payroll period beginning October 20, 2013.

A record hearing was held in the instant appeal on June 10, 2014. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Rehabilitation and Correction (DRC) was present at record hearing through its designee, Human Resources Legal Counsel Amy C. Parmi; Appellee DAS was present at record hearing through its designee, Human Resource Analyst Jeff Hazelton.

Jurisdiction of the Board was established pursuant to R.C. 124.03 and 124.14.

## **CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT**

Based upon the testimony presented and evidence admitted at record hearing, I make the following findings of fact:

Appellant Yolanda Cooks is presently employed by DRC in its Division of Business Administration, Contract Administration section, in a position classified as Contract Evaluator/Negotiator. Her immediate supervisor is Contract Administrator Barbara Johnson. The overall purpose of Appellant's position is to research, plan, develop and implement contract requests for the program areas assigned to her, and to monitor existing contracts for compliance with fiscal and operational directives.

Appellant's primary responsibility is managing and documenting DRC contracts relating to a wide variety of goods and services, including construction, vending, real estate, religious services, recycling, and the purchase of goods or services through Ohio Penal Industries. Appellant manages the entire contract process, from the initial needs assessment through post-award duties. She works with internal staff of the Department of Rehabilitation and Correction to research and gather information regarding client needs, identifies the best way to procure the requested goods or services, creates bid documents, and coordinates bid postings. Appellant actively participates in the management of all aspects of the bidding and contracting process. She responds to inquiries regarding Department of Rehabilitation and Correction standards and policies and provides training to stakeholders as necessary.

Appellant monitors monthly reports for DRC institutions in the northern region of the State for all medical services contracts on behalf of her supervisor.. Appellant works directly with agency legal counsel, DAS Real Estate Services staff, Ohio Shared Services staff, Department of Natural Resources staff, employees of the Environmental Protection Agency, Ohio Historical Society staff, Ohio Attorney General staff and DAS Procurement staff in developing and managing contracts without her supervisor's involvement.

Appellant is not responsible for developing and implementing policies with regard to the business or contract functions of the Department of Rehabilitation and Correction, although she does provide input based on her extensive knowledge of the procurement process. She also provides information to others regarding departmental protocols and procedures, but does not develop them.

### CONCLUSIONS OF LAW

Pursuant to O.R.C. 124.03(A), this Board is empowered to hear appeals of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to, *inter alia*, refusal of the director of administrative services, or anybody authorized to perform the director's functions, to reclassify an employee's position, with or without a job audit under O.R.C. 124.14(D). ORC. 124.14(D)(2) provides that the Board is to consider anew reclassifications and may order the reclassification of an employee's position to such appropriate classification as the facts and evidence warrant. The Board's decision must be consistent with the applicable classification specifications.

The primary criteria for this Board to consider when determining the most proper classification for a position are classification specifications, including the class concept, the job duties outlined, and the percentages of time devoted to each job duty. *Klug v. Dept. of Admin. Services*, No. 87AP-306, slip op. (Ohio Ct. App. 10th Dist., May 19, 1988). Unless there is a dispute as to what constitutes the classification specification, no factual issues arise with respect to the classification. Rather, as in all cases of construction, the question becomes one of law as to how the relevant facts relate to the classification specification. *Klug, supra*.

This Board must consider the relation between the classification specifications at hand and 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 any of the affected parties. *Gordon v. Dept. of Admin. Services*, No. 86AP-1022, slip op. (Ohio Ct. App. 10th Dist., March 31, 1988). The Board will consider evidence related to the job duties performed by Appellant from the date the job audit was requested through the date of record hearing.

As a general rule, parties seeking reclassification to a higher position must demonstrate that they meet substantially all of the qualifications of the higher position. *Harris v. Dept. of Admin. Services*, No. 80AP-248, slip op. (Ohio Ct. App. 10th Dist., September 25, 1980); *Deist v. Kent State Univ.*, No. 78AP-28, slip op. (Ohio Ct. App. 10th Dist., May 23, 1978.) The incumbent need not perform every duty enumerated within the body of the specification for his or her position to fall within a particular classification specification; it is sufficient if all of the job duties actually performed fall within those specified for the classification. See *Klug, supra*.

O.A.C. 123:1-7-15, however, notes that the class concept of each classification title sets forth the mandatory duties that must be performed by an incumbent for at least twenty percent of his or her work time.

Yolanda Cooks

Case Nos. 13-REC-10-0314 and 13-RED-10-0315

Page 4

The classification series for Contract Evaluator/Negotiator, Program Administrator and Project Manager were considered in conducting the review of Appellant's job duties.

Appellant's position is presently classified as Contract Evaluator/Negotiator. The purpose of the Contract Evaluator occupation is to review contracts for compliance to agency and/or government rules, regulations and/or standards and to negotiate changes. The class concept for the Contract Evaluator/Negotiator classification states that incumbents review and analyze contracts to ensure compliance with applicable laws, rules and/or regulations and negotiate changes.

Appellant fulfills the duties contained in the class concept for the Contract Evaluator/Negotiator classification. She reviews and analyzes proposed and existing contracts for accuracy and compliance. The Contract Evaluator/Negotiator classification does not, however, reflect either the majority of the duties performed by Appellant or the most complex duties she performs. Therefore, this Board should continue to examine additional classification specifications to determine whether another more accurately reflects Appellant's job responsibilities.

The purpose of the Program Administrator occupation is to provide program direction by relieving an incumbent's superior of administrative duties. The class concepts for the Program Administrator series state that incumbents at the lowest level relieve their superior of non-routine administrative duties; at the secondary level they relieve their superior of difficult duties; and at the highest level they relieve their supervisor of the most difficult administrative duties. At all levels, incumbents formulate and implement program policy.

Appellant does relieve her supervisor of some responsibilities, as provided for by the Program Administrator classification series. As noted, however, the classification series requires incumbents at all levels to formulate and implement program policy, which is a job responsibility not performed by Appellant. Therefore, I find that Appellant's position may not be properly placed in the Program Administrator classification series.

The purpose of the Project Manager occupation is to manage and/or direct the development and implementation of technical and/or specialized projects to assist management in planning and controlling the various aspects of assigned project(s), with the distinction between the three classifications in the series depending upon the scope of control and involvement with stakeholders. Incumbents in the Project Manager classifications manage projects that cover all phases of project management. Responsibilities of incumbents in the Project Manager 1 classification rest primarily within one office/program of their assigned

agency, incumbents in the Project Manager 2 classification work with stakeholders outside their agency, and incumbents in the Project Manager 3 classification interact with stakeholders in the area of state and/or federal political organizations.

The glossary section of the Project Manager classification specification defines "project" as a temporary stand-alone assignment that has a definite beginning and end and is undertaken to create a unique product or service. The definition notes that "temporary" does not necessarily mean a short period of time. Upon consideration of the testimony offered by witnesses at record hearing, I find that the process of researching and developing the materials necessary to create and manage a service contract from the requirements stage through the post-award process constitutes a "project," as the term is used in the Program Manager classification. A contract has a definite beginning and end. Some of the existing contracts created by Appellant presumably continue past their initial term, are renewed with minimal involvement, and might be considered ongoing. Appellant's testimony established, however, that she is regularly engaged in researching and creating new contracts to meet Appellee's changing service delivery needs; each new contract may be considered a new project.

The record reflects that Appellant's duties are performed within one office or program, i.e. Appellee's Contract Administration section. I find that the duties performed by Appellant are sufficient to satisfy the class concept for the Project Manager 1 classification, and that Appellant performs those duties for at least twenty percent of her work time.

The Project Manager 1 classification provides a general description of Appellant's duties. I note that the classification specification for State Procurement Analyst is more specifically descriptive of the type of duties performed by Appellant on behalf of Appellee, however, that classification specification is written specifically for and restricted to use by the Department of Administrative Services and this Board may not place Appellant's position in that classification.

Appellant's position fulfills the class concept of both the Contract Evaluator/Negotiator classification specification and the Project Manager 1 classification specification, however, the Project Manager 1 classification specification more accurately reflects all of the job duties performed by Appellant. Pertinent case law provides that where job classifications and duties overlap and the employee arguably fits into two or more categories, the employee should be placed in the job classification that most nearly matches his actual job duties. *Smathers v. Barklage*, (Feb. 14, 1978), Franklin App. No. 77AP-669, unreported.

Yolanda Cooks

Case Nos. 13-REC-10-0314 and 13-RED-10-0315

Page 6

Therefore, I respectfully **RECOMMEND** that Appellant's position be **RECLASSIFIED** to Project Manager 1, classification number 63381, effective the payroll period beginning October 20, 2013.



Jeannette E. Gunn  
Administrative Law Judge