

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Terri Davis-Stuckey,

Appellant,

v.

Case Nos. 2013-REC-10-0356
2013-RED-10-0357

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

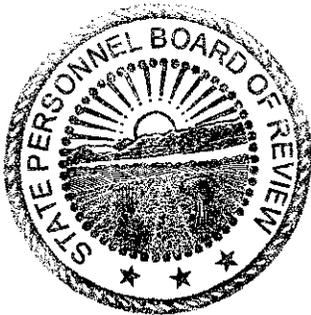
Appellees,

ORDER

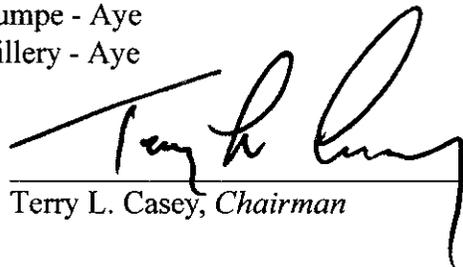
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 Appellant's position be **RECLASSIFIED** to Program Administrator 3, and that Appellee ODH be ordered to restore duties to Appellant commensurate with that classification.



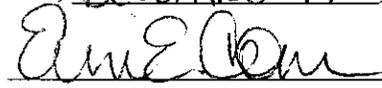
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, December 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**

Terri Davis-Stuckey,

Appellant

v.

Case Nos. 2013-REC-10-0356
2013-RED-10-0357

October 31, 2014

Department of Health,

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 and alleged reduction of her position. Pursuant to a study conducted by Appellee Department of Administrative Services, 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 2, classification number 63216, to Management Analyst, classification number 63211.

A record hearing was held in the instant appeal on May 21, 2014. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Health (ODH) was present at record hearing through its designees, Acting General Counsel Mahjabeen F. Qadir, and Chief Financial Officer Harry Kamdar; Appellee DAS was present at record hearing through its designee, Human Capital Management (HCM) Senior Analyst Laura Sutherland

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 Terri Davis-Stuckey testified that she is presently employed by Appellee Department of Health (ODH) in a position classified as Management Analyst. She confirmed that her position was reclassified in October 2013 as a result of Appellee Department of Administrative Services' (DAS) Management Analyst Supervisor study.

Appellant recalled that she provided DAS with information regarding her job duties in March 2013, and confirmed that the information she provided at that time was accurate. She noted that in March 2013 she was assigned to ODH's Office of Financial Affairs, Cash Management Unit, and served as the agency's Remediation Officer; she was primarily responsible for formulating, developing, and implementing revised policies to ensure compliance on behalf of the Director of Health with federal and state rules and regulations. Appellant explained that she was also the agency manager assigned to act as liaison to remediate audit findings, exceptions, and citations issued by external oversight agencies, including federal grant programs, the Department of Justice, and the State Auditor's office, and noted that she worked with multiple programs throughout the agency.

In addition to her compliance responsibilities, Appellant indicated that she was responsible for staying informed of changes to applicable federal and state rules and regulations, as well as evaluating department-wide policies and procedures to ensure accountability and efficiency. Appellant performed her duties independently, under general direction from her immediate supervisor at the time, Chief Financial Officer Harry Kamdar, whose position is classified as Deputy Director 5. She worked directly with her supervisor, general counsel and executive management to resolve high-level administrative and operational problems. Appellant did not supervise any other employees in her position as Remediation Officer.

Subsequent to her job audit and Appellee DAS' finding, Appellant's position was reclassified as Management Analyst. Appellant was transferred to Appellee

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ODH's Bureau of Vital Statistics in November 2013 and is presently supervised by Amadou Diallo, whose position is classified as Fiscal Officer 3. In her current position, Appellant is responsible for evaluating the Bureau of Vital Statistics' internal controls and validating the revenue and cash management procedures currently in place. Appellant noted that she has created a desk manual for new employees and steps in to provide front desk services when the office is short staffed. Appellant confirmed that she does not supervise any other employees in her current position.

Harry Kamdar testified that he is presently employed by Appellee ODH as Chief Financial Officer, and stated that he was Appellant's immediate supervisor at the time of her position audit and reclassification. He noted that Appellant's testimony regarding her job duties was accurate and indicated that Appellant performed duties on his behalf. The witness recalled that Appellant acted as a gatekeeper and liaison for ODH audits conducted by external agencies, and also worked with a variety of individuals within the agency to carry out her duties.

Mr. Kamdar explained that he has overall responsibility for agency compliance with federal and state rules and regulations; as Remediation Officer, Appellant was responsible not only for identifying areas where corrective action was needed but also for developing plans, policies, procedures, and timelines to address compliance issues. The witness noted that Appellant worked independently and was responsible for monitoring proposed plans to ensure they were followed and keeping him updated on their progress.

Laura Sutherland testified that she is presently employed by Appellee DAS as a Human Capital Management (HCM) Senior Analyst. She noted that, although she did not personally perform Appellant's position audit, she was familiar with the rationale used by DAS in reclassifying Appellant's position to Management Analyst. The witness agreed that Appellant was performing the duties of a Management Analyst Supervisor 2 prior to the removal of that classification from the State class plan.

Ms. Sutherland stated that the Management Analyst classification series remains the most appropriate for Appellant's position; she indicated that DAS does not consider fiscal operations to constitute a "program," and noted that Appellant is, therefore, not in charge of "programs" as required of classifications in the Program

Administrator series. The witness acknowledged that the Program Administrator series purpose section does not define the term "program."

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, a party 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.

* * * * *

The classification series for Management Analyst and Program Administrator were considered in conducting the review of Appellant's job duties.

The purpose of the Management Analyst occupation is to ensure optimum productivity, efficiency and quality of agency operations and/or services. The class concept for the Management Analyst series states that incumbents monitor and analyze operations, systems or procedures of their assigned agency to determine needed improvements and research proposed programs, policies and/or legislation to determine feasibility or impact of implementation.

The purpose of the Program Administrator occupation is to provide program direction by relieving an incumbent's superior of administrative duties. The class concept for the Program Administrator series states 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.

At the time of her position audit, Appellant's primary responsibility was to ensure compliance in areas identified as deficient by audits and reviews conducted by internal and external oversight agencies; Appellant ensured compliance by formulating, developing, and implementing revised agency policies and controls. Appellant performed compliance duties for approximately fifty percent of her time. Appellant also monitored and analyzed operations and procedures to ensure that operations were effective and efficient, and ensured compliance with federal and state rules and regulations, which required her to research and assess their impact. She performed these duties for approximately twenty-five percent of her average working time. Twenty percent of Appellant's work time was devoted to interpreting

federal and state regulations to assess the adequacy of existing ODH policies and procedures, and to working with ODH's External Audit Unit to monitor corrective action plans for subgrantees. The remaining five percent of Appellant's time was spent in developing, presenting, and attending compliance training.

Testimony at record hearing indicated that Appellant carried out her duties on behalf of her supervisor, Mr. Kamdar, who has overall responsibility for compliance activities. Testimony further established that Appellant interacted with multiple programs across the agency and collaborated with executive staff to carry out her job responsibilities.

Upon a review of all of the testimony and consideration of the scope and nature of Appellant's job duties, I find that the tasks performed by Appellant as Remediation Officer are most accurately described by the Program Administrator classification series. I further find that the duties performed by Appellant on behalf of her supervisor, Mr. Kamdar, were sufficient to comprise "most difficult" duties, as referenced by the Program Administrator 3 classification. Although the Management Analyst classification and the tasks outlined therein reflect a portion of Appellant's responsibilities, it does not encompass the most difficult duties performed by Appellant, which were those related to the development and implementation of agency policies and procedures. The policies and procedures formulated and implemented by Appellant provide direction for multiple agency programs.

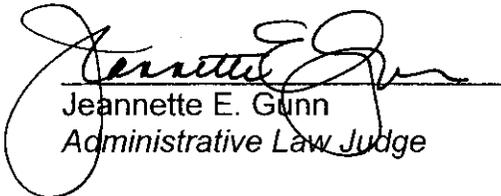
In the matter at hand, Appellee ODH assigned new duties to Appellant and transferred her to her current position in the Bureau of Vital Statistics as a result of Appellee DAS' recommendation that her position be reclassified to Management Analyst. Appellant filed a reduction appeal with this Board. An examination of the duties presently performed by Appellant indicates that they fall within the range of responsibilities properly assigned to the Management Analyst classification. O.A.C. 124-1-02(Z) defines a reduction in position as an action which diminishes an employee's duties or responsibilities to the extent that an audit of the employee's position would result in a reclassification to a classification assigned a lower pay range. The Management Analyst classification is assigned to a lower pay range than the Program Administrator 3 classification, accordingly, I find that Appellant was reduced in position by Appellee ODH's reassignment of her duties.

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Therefore, I respectfully **RECOMMEND** that Appellant's position be **RECLASSIFIED** to Program Administrator 3, and that Appellee ODH be ordered to restore duties to Appellant commensurate with that classification.



Jeannette E. Gunn
Administrative Law Judge