

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Anna J. Leko
Daniel Clements
Nancy O'Neill

Appellants,

v.

Youngstown State University,

Case Nos. 2014-REC-03-0059
2014-REC-03-0060
2014-REC-03-0061

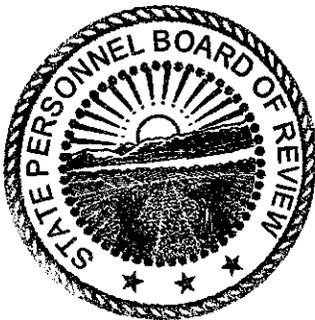
Appellee,

ORDER

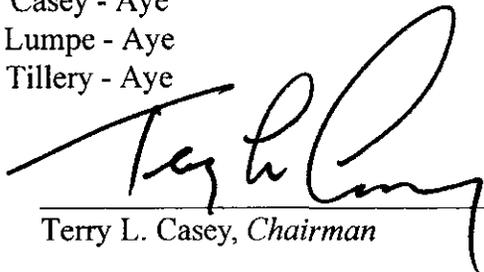
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 YSU's job audit determination is **OVERTURNED** and that Appellants be **RECLASSIFIED** to Computer Operator 3s, effective with the payroll period after November 15, 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, NOVEMBER 06, 2014.


Clerk

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

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STATE PERSONNEL BOARD OF REVIEW**

Anna J. Leko
Daniel Clements
Nancy O'Neill

Case Nos. 2014-REC-03-0059
2014-REC-03-0060
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Appellants

v.

September 29, 2014

Youngstown State University

Appellee

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 August 25, 2014 at 10:00 a.m. Present at the hearing were the Appellants, Ms. Anna Leko, Mr. Daniel Clements and Ms. Nancy O'Neill, all Computer Operator 2s, who were represented by Mr. Stanley J. Okusewsky III, Attorney at Law, and the Appellee, Youngstown State University (hereinafter YSU), was present through its designee, Mr. Steve Lucivjansky, Manager of Employment and Staffing, who was represented by Appellee's counsel, Ms. Wendy K. Clary, Assistant Attorney General. The Appellant's direct supervisor, Mr. Troy Cross, IT Manager for Youngstown State University and Mr. Steve Lucivjansky, the individual who was familiar with the audit and its results were also present and both offered testimony, as well.

It should be noted that on or about November 15, 2013, all of the above named Appellants filled out Classified Civil Service Position Audit Request Forms and that on or about March 4, 2014 all were notified by YSU that their positions were properly classified as a Computer Operator 2s. Subsequently, on or about March 13, 2014, all of the above named Appellants appealed YSU's audit decisions in a timely fashion to this Board. It should be noted that the aforementioned was stipulated too, as well as the subject matter jurisdiction of this Board was established pursuant to O.R.C Sections 124.03 and 124.14.

Before proceeding onto the record hearing, the Appellants all stated that although they are presently classified as Computer Operator 2's, classification specification number 12371, they were seeking to be reclassified to the position of Computer Operator 3, classification specification number 12372. Further, it should be noted, it was agreed to prior to the start of the record hearing, that Mr. Daniel Clements would offer testimony on behalf of all three Appellants, as they all

performed the same functions, under the same supervisor Mr. Troy Cross, an IT Manager. Moreover, for sake of judicial economy all of the above named appeals and cases were consolidated into Case No. 2014-REC-03-0059.

STATEMENT OF THE CASE

The first person to testify was the spokesman for all of the Appellants, Mr. Daniel Clements, a Computer Operator 2 for YSU for approximately the last six and half years. When questioned, the witness explained that Mr. Troy Cross, IT Manager has been supervising him, as well as the others, for the same time that he is held his position. The witness explained that his department is called the Information Technology Services (ITS) Department, and that his section is the ITS Operations Support Unit containing the three Appellants herein. (See Appellee's Exhibit 9). When questioned as to the mission of this section Mr. Clements testified that they are there to support computer operations throughout the University.

The witness identified Appellee's Exhibit 3, as his position description of his classification as a Computer Operator 2, and explained that he, as well as the others, works Monday through Friday either 7 AM to 4 PM, or 3:30 PM to midnight, on a rotating two week basis. The witness explained Ms. O'Neill's position was abolished after the audit, leaving the rotation only between Ms. Leko and him. Upon questioning of the essential duties first listed in this position description (30% to 50%), the witness testified that he schedules, operates, monitors and controls computer hardware equipment and peripherals and software systems and applications; executes daily production schedule of all batch and online processing; prints, reviews, assembles and distributes reports and media in a timely fashion; investigates and resolves hardware software issues; prepare status reports concerning computer operation activities including daily logs, schedules hardware and software outages and resolutions. Further, the witness testified with respect to the second group of duties (30% to 50%) listed on the exhibit, he affirmed that he does coordinate, schedule and perform preventive maintenance and upgrades of software and hardware systems; assist system administrators with maintenance of client and server configurations; prepares all batch and online computer processing schedules (which is on the old mainframe system, now called the banner system); maintains inventory of all computer supplies and consumables and monitors related expenditures; creates documentation, automates processes, develops procedures and recommends standards to improve quality and strength and controls; develops and maintains electronic forms. Lastly, the witness testified with respect to the last group of job duties listed as (10% to 20%) that he also receives and responds to inquiries regarding computer services; answers Tech Desk calls after 5 PM; consults and advises management and staff regarding computer services; represents immediate supervisor as necessary. Upon further questioning, with

respect to the duty surrounding the answering of the Tech Desk calls, the witness explained that time might be expanded to more like 30% to 40% of his time spent doing this type of activity, although the evidence revealed that it was more like 20%.

Mr. Clements was then questioned with respect to Appellee's Exhibit 1, the Computer Operator 2 classification specification. Regarding the job duties in order of importance, the witness testified that with respect to the first group of duties he does operate and monitor the mainframe computer and/or microcomputer hardware system, initiates procedures start, backup, save, restore and/or shutdown computer files or systems, mounts computer tapes and/or disks, mounts computer forms onto the printer, operates computer terminal and peripheral computer equipment. The witness stated that he also identifies, corrects and/or repairs minor system problems and notifies appropriate personnel when major problems are detected. Further, the witness testified respect to the second group of job duties on the above noted exhibit that he has learned to perform complex computer operation functions, schedules and submits computer or print production job/data runs utilizing job control or report-generated computer language; cleans and maintains peripheral computer equipment; assembles and/or distributes computer print-outs/reports; maintains records of operation activities and reads manuals regarding equipment operation system procedures. However, the witness testified that he does not assist in the training of any lower level operators. Moreover, the witness explained with respect to the last group with job duties that he does provide information and/or training to online or batch users; confers with programmers regarding computer operations or print jobs; coordinates work with production control and/or other computer units; retrieves and files tapes in absence of data librarian, as necessary. The witness explained that there is no data librarian and that the three of them all performed this function, when required.

Mr. Clements was then questioned with respect to Appellee's Exhibit 2, the Computer Operator 3 classification specification. Regarding the job duties in order of importance, the witness testified that with respect to the first group of duties he does perform complex mainframe computer and/or microcomputer console operation functions, initiates procedures to start, back-up, save, restore and/or shutdown computer files or systems and loads controlling devices and/or other operating software into system. Moreover, when questioned the witness testified that he does operate remote job entry site "help desk" as chief operator, as when he's working the five to midnight shift, he is working on the "tech desk", as he is the only person on staff. With respect to the second group of job duties, the witness explained that he does operate computer terminal and peripheral computer equipment; mounts computer tapes and/or disks; mounts computer forms on printer; identifies, tracks and/or repairs minor system problems and contacts appropriate vendor or engineer when major problems are detected; schedules and submits computer or print production job/data runs utilizing job control or report generating

computer language; cleans and maintains peripheral computer equipment; decollates print jobs, but not bursts; assembles and/or distributes computer printouts/reports; maintains records of operation activities; reads manuals regarding equipment operation system problem identification; but does not deliver online computer based training to lower-level operators; resolves network problems involving the "banner" system and/or microcomputers and direct or dial-up connections. Additionally, with respect the last group of job duties listed on the above noted exhibit, the witness testified that he does provide technical assistance to users, he does train online or batch users: does confer with programmers or other computer unit personnel regarding operations problems and solutions to ensure maximum print production or system uptime 24 hours per day, 7 days per week; retrieves and files tapes in absence of data librarian, as necessary. Moreover, the witness did state that he would contact either the vendor and/or the engineer if problems at work would arise of any significance.

The witness then identified Appellee's Exhibit 5 as his Classified Civil Service Position Audit Request Form dated November 15, 2013, that listed, among other things, duties which he is previously testified that he performed. However, the witness did note that on the seventh page, said exhibit, he did list additional duties indicated in the job duties section of the questionnaire versus those listed into the existing position description. The witness explained that his new and additional duties were as follows:

- Phone support during assigned hours to assist faculty, management and students with various tech issues that he had never dealt with before. These duties included, for a limited to the following:
- Portal password resets, INB password reset, self-service account re-enable, Pin resets, e-mail account modifications.
- Assist students to enroll in blackboard courses and navigate blackboard website. Assist students with insulation of course instructional software programs.
- Walk customers through connecting their phones, tablets, and laptops to Wi-Fi and or Office 365 e-mail. Walk customers through various online tech desk self-help documents.
- Submit work orders to various campus support areas, including but not limited to, tech desk, EMS, CTS, ITIE,

network telecom, and with a strong emphasis on first call resolutions.

- Assist faculty, staff, and students with software and hardware issues regarding laptops, PC's, mobile devices and multi-media carts.
- Serve as a liaison between the university technical support staff as well as the University community as a whole.
- Answer calls regarding software, hardware and various inquiries of a technical nature.

The witness then identified Appellee's Exhibit 9, as a table organization of the ITS Department and described it as an accurate description wherein they all work. Moreover, when questioned as to the main responsibility and/or job task that they perform, Mr. Clement stated that is to maintain the computer operational environment for the University.

Upon questioning by Appellee's counsel, with respect to the tech calls that he receives being up to 30% to 40% of the time spent at his job, was asked to identify Appellee's Exhibit 12, a help desk call activity log. The witness when identifying the call activity log that was dated between July 1, 2013 through June 30, 2014, agreed, when questioned, that for July 2013 the "total talk duration" time for that month was 4 hours 2 min. and 19 seconds. However, when questioned, the witness testified that he would disagree that he only spends 10% to 20% of his time handling tech calls, as it seems more. Upon questioning by the undersigned Administrative Law Judge, the call activity log only lists calls when someone was at work on the second shift from five to midnight, and not during the other couple hours of that shift, nor the other two weeks spent on first shift. Further, the witness did note that during the first shift of every day there is "tech desk" help available.

Upon questioning by the Appellant's counsel, the witness testified they started assigning him, along with the others, "tech desk" duties sometime in 2013. Upon further questioning, the witness testified that they all work with the "banner system", which used to be named "mainframe system" and that if problems arose during the day with respect to the banner system and/or the operational software they would call them help resolve those issues, not the tech desk. The witness re-identified Appellee's Exhibit 2, the classification specification for Computer Operator 3, and agreed that during the day they are all working on the help desk, as provided for in the specification. Further, the witness agreed, when questioned, that they

assigned these new tech desk duties from 5 PM till midnight around May 2013. (See Appellant's Exhibit A).

Further, it should be noted that the parties stipulated that all three Appellants essentially performed the same duties as testified to by Mr. Daniel Clements.

The next person to testify was Mr. Troy Cross, IT Manager for YSU, the immediate supervisor of all the Appellants, for approximately the last six years or so. Specifically, when questioned, if the Appellant's testimony regarding his job duties and/or responsibilities were accurate, Mr. Cross answered in the affirmative, as he was in the hearing room and heard the same. Further, when questioned, the witness agreed that the new "tech desk" duties started in May 2013, along with agreeing that even though the call log activity minutes on Appellee's Exhibit 12 showed "X" amount of time spent, there might have been work order tickets that had to be processed after the phone call was completed. Further, the witness testified that operations, where the Appellants work has its own dedicated "ops line" for help, as well.

Upon questioning by the Appellant's counsel, the witness agreed that the "ops line" is different than the "tech desk" line, wherein the Appellants would handle more complex software/hardware problems.

The last person to testify was Mr. Steve Lucivjansky, the Manager of Employment and Staffing for YSU, a position he is held for little over the last six years. Mr. Lucivjansky testified that while he did not begin the audit, as Ms. Carol Trube began the audits in question before her retirement in December 2013 he finished and completed the audits on or about February 27, 2014. The witness identified Appellee's Exhibit 10, as his report and recommendation with respect to each of the above named Appellants regarding the Position Report and Analysis that he forwarded to the Chief of Human Resources. When questioned, the witness testified that after a thorough review of each of the Appellants job duties and/or responsibilities he found that they all were properly classified as Computer Operator 2s. When questioned as to one of the major differences between the two classifications of Computer Operator 2 and Computer Operator 3, the witness agreed that it was the reference to operating a remote job entry site "help desk" as chief operator. Further, the witness testified that there is a chief operator in the IT section who is an Associate Director, which is responsible for the help desk. Upon questioning, the witness testified that a Computer Operator 3 classification specification also provides for one to provide supervision, only to walk back his statement as it does not call for supervision in the classification specification.

Upon questioning by Appellant's counsel the witness testified that he did not interview any of the above named Appellants, as he simply relied on Ms. Trube's

notes. Again, the witness explained that the major difference between the Computer Operator 2 and Computer Operator 3 classification specification is the introduction of one providing services at the "help desk", and the level of the assistance that they provide.

FINDINGS OF FACT

There were no real discrepancies between the Appellants' characterization of the duties that he performed and those of the testimony of his direct supervisor, Mr. Troy Cross, IT Manager for YSU. Therefore, I find as a matter of fact, the Appellant(s) perform the duties about which he testified. Additionally, I also find as a matter of fact, the Appellant(s) performed and/or spend 20% of their time being responsible for "tech desk" duties.

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 Appellants, Mr. Daniel Clements, Ms. Anna Leko and Nancy O'Neill, stated that although they are presently classified as Computer Operator 2s (12371), they were all seeking to be placed into the

classification specification of a Computer Operator 3 (12372), as a better classification for them and/or a "better fit", and those two classification specifications were the specifications that were considered in making the instant recommendation.

After a thorough review of the above mentioned classification specifications, it is my recommendation that the Appellants were not properly classified as Computer Operator 2s (12371). Based on the findings set forth, above, and for the reasons set forth, below, all of the Appellants should be re-classified to Computer Operator 3s. Accordingly, this Board should not affirm YSU's job audit determination and should reclassify the Appellants to the positions of computer Operator 3s.

The Series Purpose language for the Computer Operator 2 position reads "the purpose of the computer operator occupation is to operate and monitor the mainframe "banner" computer and/or microcomputer hardware systems". Further, the job duties in order of importance of a Computer Operator 2 states with respect to the first group of duties one is to operate and monitor the mainframe computer and/or microcomputer hardware system, initiates procedures start, backup, save, restore and/or shutdown computer files or systems, mounts computer tapes and/or disks, mounts computer forms onto the printer, operates computer terminal and peripheral computer equipment. Further, the classification specification states that one also identifies, corrects and/or repairs minor system problems and notifies appropriate personnel when major problems are detected. With respect to the second group of job duties it is noted that one is to "**learns**" to perform complex computer operation functions, schedules and submits computer or print production job/data runs utilizing job control or report-generated computer language; cleans and maintains peripheral computer equipment; assembles and/or distributes computer print-outs/reports; maintains records of operation activities and reads manuals regarding equipment operation system procedures. (Emphasis added). Moreover, the duties also require one to assist in training any lower level operators, along with providing information and/or training to online or batch users; confers with programmers regarding computer operations or print jobs; coordinates work with production control and/or other computer units; retrieves and files tapes in absence of data librarian, as necessary.

The documentary and testimonial evidence revealed that the Appellant performed all of the duties listed above the classification specification of a Computer Operator 2, with the exception that since all of them have been performing complex computer operation functions for some time, they are not in the process of learning, but have learned to perform this function. Further, the evidence revealed that the Appellants were also performing "tech desk" duties, something that is not contemplated by the aforementioned classification specification.

Thus, the undersigned Administrative Law Judge, reasoned that the above noted classification specification of a Computer Operator 2 could have been an appropriate classification for the Appellant(s), if it were not for also looking at the classification specification of a Computer Operator 3.

When reading the Series Purpose language for the Computer Operator 3 position which reads "the purpose of the computer operator occupation is to operate and monitor the mainframe "banner" computer and/or microcomputer hardware systems", stated the exact same thing as a Computer Operator 2. Further, the job duties in order of importance of a Computer Operator 3 states that one is perform complex mainframe computer and/or microcomputer console operation functions, initiates procedures to start, back-up, save, restore and/or shutdown computer files or systems and loads controlling devices and/or other operating software into system. Moreover, one is also to operate remote job entry site "help desk" as chief operator. With respect to the second group of job duties, the classification specification calls for one operate computer terminal and peripheral computer equipment; mounts computer tapes and/or disks; mounts computer forms on printer; identifies, tracks and/or repairs minor system problems and contacts appropriate vendor or engineer when major problems are detected; schedules and submits computer or print production job/data runs utilizing job control or report generating computer language; cleans and maintains peripheral computer equipment; decollates print jobs and bursts; assembles and/or distributes computer printouts/reports; maintains records of operation activities; reads manuals regarding equipment operation system problem identification; deliver online computer based training to lower-level operators; resolves network problems involving the "banner" system and/or microcomputers and direct or dial-up connections. Additionally, with respect the last group of job duties listed on the classification specification of a Computer Operator 3 one is also to provide technical assistance to users, train online or batch users: confer with programmers or other computer unit personnel regarding operations problems and solutions to ensure maximum print production or system uptime 24 hours per day, 7 days per week; retrieves and files tapes in absence of data librarian, as necessary..

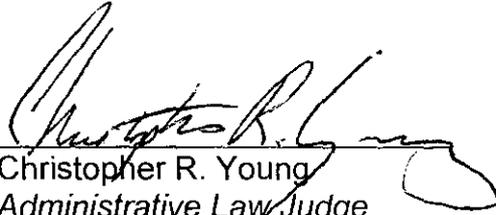
After reviewing Mr. Clements' testimony with regard to his job tasks/and/or responsibilities it became apparent when reviewing the classification specification of a Computer Operator 3 classification specification was the most appropriate fit, or "best fit" for the Appellant(s). The testimonial and documentary evidence revealed that the Appellants all performed complex mainframe computer and/or microcomputer console operation functions, initiated procedures to start, back-up, save, restore and/or shutdown computer files or systems and loads controlling devices and/or other operating software into system. The Appellants also spent approximately 20% of their time performing job duties and/or tasks requiring them to operate a remote job entry site called the "tech desk". Again, it should be noted that

the "tech desk" duties are not contemplated by the classification specification of a Computer Operator 2. The Computer Operator 3 classification specification calls for individuals in that classification to be operating the "tech desk" duties, as the chief operator, in order to be put into that classification. YSU's reasoning that since they employ an Associate Director who is responsible for the "tech desk" during the first shift, no other employee can be, or should be considered a chief operator. It seems to the undersigned Administrative Law Judge that YSU has overlooked the fact that when the Associate Director is not at work (as in the case at bar), individuals that would be operating the "tech desk" duties are the only ones present, only to answer to themselves. To assign individuals "tech desk" duties, by themselves on second shift, which demonstrates their collective knowledge and understanding of the complexities of the computer operating system for YSU, and turn around and find that even though they perform "tech desk" duties they can't be reclassified into the higher classification of a Computer Operator 3, is not right.

Thus, based upon the testimonial and documentary evidence submitted at the record hearing, as well as the duties that the Appellants actually perform, they should have been reclassified to the position of a Computer Operator 3.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **OVERTURN** YSU's job audit determination and that Appellants be **RE-CLASSIFIED** to Computer Operator 3s, effective with the payroll period after November 15, 2013.


Christopher R. Young
Administrative Law Judge