

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Robbyn Ware,

*Appellant,*

v.

Case No. 2014-REC-06-0153

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

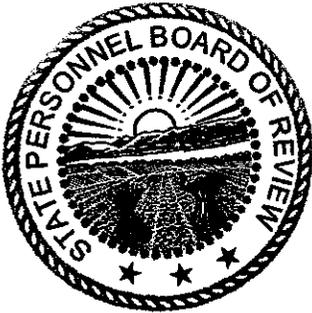
*Appellees,*

**ORDER**

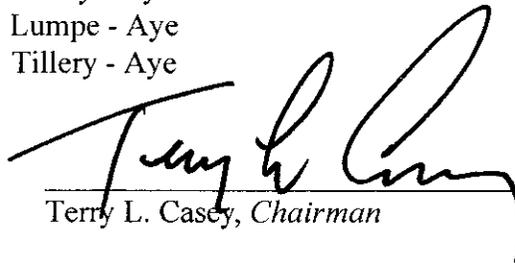
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 job audit determination of the Department of Administrative Services be **MODIFIED** and Appellant's position be **RECLASSIFIED** to Business Administrator 3, 63317, pursuant to R.C. 124.03 and R.C. 124.14.



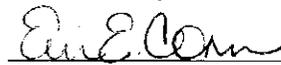
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
\_\_\_\_\_  
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 22, 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 July 29, 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 Number: 2014-REC-06-0153

Transcript Costs: \$7.50 Administrative Costs: \$25.00

Total Deposit Required: \* \$32.50

Notice of Appeal and Deposit Must  
Be Received by SPBR on or Before: August 6, 2015

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

Robbyn Ware

Case No. 2014-REC-06-0153

*Appellant*

v.

May 19, 2015

Department of Rehabilitation and Correction,  
Northeast Pre-Release Center,

and

Department of Administrative Services,

*Appellees*

James R. Sprague  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on due to Appellant's June 30, 2014 timely filing of an appeal from a job audit determination issued by Appellee Department of Administrative Services (DAS) on or about June 4, 2014. Following the audit, DAS determined that Appellant's position was properly classified as Business Administrator (BA) 2, 63316 (Pay Grade 13). Alternatively, Appellant believes her position would be better classified as Business Administrator 3, 66317 (Pay Grade 14).

This matter was initially scheduled for hearing but was continued by this Board due to the retirement of the then-assigned Administrative Law Judge. This matter was then re-assigned and re-scheduled for hearing to be held on March 24, 2015.

Present on that date was Appellant, who appeared *pro se*. Appellee Department of Rehabilitation and Correction (DR and C), Northeast Pre-Release Center (hereinafter Northeast Reintegration Center-NERC), was present through its designee, NERC Warden LaShann Eppinger, and was represented by Amy Parmi, Staff Counsel. Appellee DAS was present through its designee, Human Capital Management Analyst Darryl McFarlane.

This Board's jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

## CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

On March 24, 2015 and prior to the commencement of the hearing, the parties apprised the undersigned that they were in agreement regarding the duties that Appellant performs. It was further established that the only issue remaining in this matter was whether NERC is a "... small or medium size ... institution ..." or, alternatively, is a "...large institution ..." (emphasis added) (Please see the respective class concepts for Business Administrator 2 and 3)

It was also established that the Business Administrator 6331 class series may be used for "All Agencies" including for DR and C positions. However, no glossary is included within the Business Administrator, 6331 series to apprise the reader concerning the proper manner in which to categorize the size of an institution.

Accordingly, the undersigned vacated the March 24, 2015 scheduled hearing date and, instead, asked the parties to supplement the record regarding this question, which all parties did in a timely manner. The parties chose to waive their opportunity to file optional replies.

On April 22, 2015, DAS filed its initial submission. In that submission, DAS has offered, at page 2, a list and accompanying graph under the title: "Total Staff at each ODRC [Ohio Department of Rehabilitation and Correction] Institution as of 5/2". The chart and graph indicate that NERC (listed by its former acronym of "NEPRC") has 155 staff. The chart and graph further indicate that staff at DR and C's correctional institutions range from a low of 155 at NERC to a high of 629 at the Southern Ohio Correctional Institution ("SOCF"). The institution that is closest in staff size to NERC is the Dayton Correctional Institution ("DCI"), with 260 staff.

DAS has further broken down its chart and graph into three groups: "small"; "medium sized"; and "large". DAS offers: "A staff of under 150 would be a small facility, over 150 but less than 300 would be a medium sized facility and over 300 would be a large facility." (Where DAS would categorize institutions with exactly 150 staff or exactly 300 staff is not relevant for our purposes here. Additionally, the chart shows 26 correctional institutions but the graph shows 22 correctional institutions. It would seem that four institutions were cut off of the graph when it was copied or when DAS electronically transmitted it to this Board.)

According to DAS' analysis, no correctional institution under its submission would be a small facility/institution, two correctional institutions (namely NERC and DCI) would be medium sized facilities/institutions, and 24 correctional institutions would be large facilities/institutions.

It is not entirely clear how DAS chose "over 300" as its cut point for separating a medium sized from a large institution. Further, DAS' suggested correctional institution distribution of zero small, two medium, and 24 large institutions appears to offer a bit of a skewed categorization of the staff distribution in DR and C's correctional facilities. Yet, the undersigned certainly appreciates that DAS attempted as best it could to create a tool that this Board could use to categorize DR and C's correctional institutions, in the absence of any definitions addressing same in the Business Administrator class series.

On April 27, 2015, Appellant and DR and C filed their joint memorandum to supplement the record, along with several pertinent exhibits. This memorandum provides a fairly detailed analysis regarding the issue presented. This analysis includes a discussion concerning the staff utilized at the Ohio Department of Mental Health and Addiction Services' four hospitals and at the Department of Youth Services' three juvenile correctional facilities.

Based on the extant record, which includes the parties' above-referenced submissions, I make the following Findings:

First, I note that I incorporate, herein, any finding set forth, above, whether express or implied.

Next, I find that Appellant performs her duties for a "large" institution, one utilizing a staff of 155 employees at the time of submission. I note that NERC housed 605 inmates as of March 15, 2015 and had an estimated FY 2013 budget of \$13,583,654.00. The Ohio State Penitentiary has fewer inmates than NERC and the Franklin Medical Center has about the same number of inmates. (Please see Appellee DR and C and Appellant's joint memorandum at pages 2, 5, and 6 and Exhibit B [<http://www.drc.ohio.gov/Public/neprc.htm>]). That joint memorandum further notes that Appellant reports directly to the Warden and performs several additional important duties that are unique to her position.

As well, while no testimony was presented on this point, NERC Warden Eppinger did indicate on March 24, 2015 (in the presence of the undersigned, the Appellant, respective counsel, and the parties' designees) that NERC's role is expected to increase in the near future and that NERC's staff and/or inmate size may be expected to increase commensurately.

Further, I find that Appellant plans, directs, and coordinates the business office and support services operations of NERC.

## **CONCLUSIONS OF LAW**

This case presents this Board with the question of whether the more appropriate classification for Appellant's position is Business Administrator 2, 63316 or, alternatively, Business Administrator 3, 63317? Based on the findings set forth above, and for the reasons set forth below, this Board should reclassify Appellant's position to Business Administrator 3.

The class concept for BA 2 reads, in pertinent part, that the BA 2 is to: "... plan, direct & coordinate all fiscal & some or all support services operations of small or medium size ... institution ...".

The class concept for BA 3 reads, in pertinent part, that the BA 3 is to "... plan, direct & coordinate business office & support services operations of large institution ...".

As found above, Appellant plans, directs, and coordinates the business office and support services operations of a large institution. Accordingly, Appellant's position should be reclassified to Business Administrator 3, 63317.

#### **RECOMMENDATION**

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the job audit determination of the Department of Administrative Services and **RECLASSIFY** Appellant's position to Business Administrator 3, 63317, pursuant to R.C. 124.03 and R.C. 124.14.

  
James R. Sprague  
Administrative Law Judge