

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Mark Anderson,

Appellant,

v.

Case No. 2014-REC-09-0237

Department of Job and Family Services,
and
Department of Administrative Services,

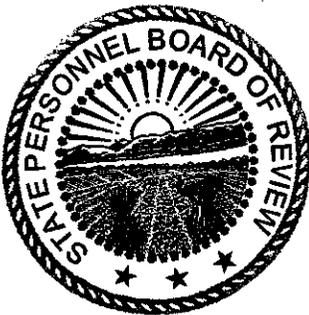
Appellees,

ORDER

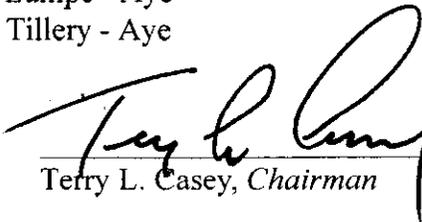
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 that Appellant's position be removed from its "holding" designation and be assigned the classification of Fiscal Specialist 2, 66532, is **AFFIRMED** pursuant to R.C. 124.03 and R.C. 124.14.



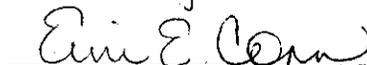
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, May 01, 2015.


Erin E. Corn
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 May 8, 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-09-0237

Transcript Costs: \$157.50 Administrative Costs: \$25.00

Total Deposit Required: * \$182.50

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: May 18, 2015

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

Mark Anderson

Case No. 2014-REC-09-0237

Appellant

v.

April 7, 2015

Department of Job and Family Services

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 came to be heard on April 2, 2015. Present at the hearing was Appellant, who appeared *pro se*. Appellee Department of Job and Family Services (DJFS) was present through its designee, Nancy Jancso-Kocarek, Human Capital Management (HCM) Manager, and was represented by Nicole S. Moss, Senior Staff Attorney. Appellee Department of Administrative Services (DAS) was present through its designee, Darryl McFarlane, HCM Analyst.

This cause comes on due to Appellant's September 3, 2014 timely filing of an appeal from DAS' job audit determination that Appellant's position should be reclassified to Fiscal Specialist (FS) 2, 66532. DAS issued its determination notice on August 6, 2014 and Appellant received that notice on August 8, 2014.

Prior to DAS' issuance of its determination, Appellant's position was classified as Management Analyst Supervisor (MAS) 2, 33216. This Board may take administrative notice that DAS has deleted the Management Analyst Supervisor 1 and 2 classes from the state's Class Plan. Because Appellant was "in holding", Appellant could have continued to retain the MAS 2 class, with certain restrictions. However, because Appellant chose to file for a job audit, his position came under the same procedures and potential results as would any other position where the incumbent requested an audit.

Thus, here, Appellant's position was reclassified downward from MAS 2 "in holding" to FS 2, with a commensurate reduction from Pay Grade 14 (exempt) to Pay Grade 32 (bargaining unit). Appellant seeks to have his position reclassified to ODJFS Program Administrator (PA) 1, 64291, Pay Grade 15.

Jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14. Pursuant to R.C. 124.03 and R.C. 124.14, and in conjunction with the collective bargaining agreement covering Appellant's current classification, this Board may leave Appellant in the FS 2 class or may assign an exempt class to Appellant's position, but may not assign another bargaining unit class to Appellant's position.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

Three witnesses testified at hearing.

First to testify was **Mark Anderson**, the Appellant, who currently serves as an FS 2 in the Technical Assistance unit within DJFS' Bureau of County Finance and Technical Assistance, headed by Donna Tucker, a Fiscal Officer (FO) 4. That Bureau falls under the Office of Fiscal and Monitoring Services, which is headed by Deputy Director and CFO Eric Mency, who reports to the Director of DJFS.

The supervisor of an Appellant in a reclassification appeal is ordinarily the next individual to testify in a reclassification hearing. However, the position of the individual who ordinarily supervises Appellant's position is currently vacant.

The duties of that supervisory position are currently being performed by Ellen Holt, who is in a Temporary Working Level (TWL) as an FO 3. (Please see R.C. 124.181 (J) and O.A.C. 123: 1-37-07 "Temporary working level pay adjustment") Ms. Holt ordinarily serves as a cohort and team member with Appellant and Ms. Holt's regular position currently is classified as MAS 2.

A person assigned to a TWL generally does not conduct performance evaluations. Thus, the person in a TWL does not complete the supervisory portion of DAS' job audit packet.

Here, that duty was fulfilled by Ms. Tucker, who supervises the (currently vacant) FO 3 position. Further, Ms. Tucker is familiar with the work of Appellant's position and was, thus, qualified to testify at hearing. Accordingly, next to testify was Bureau Chief **Donna Tucker**, FO 4.

Last to testify was **Darryl McFarlane**, HCM Analyst. Mr. McFarlane conducted the audit on Appellant's position.

At page 3 of the Job Audit Packet (Joint Exhibit A), Appellant indicates that the following comprise the main purposes of Appellant's job:

Serve as fiscal liaison between state and county agencies

Provide fiscal technical assistance to all JFS agency types (public assistance, child welfare, child support and workforce development).

Provide technical assistance and training on all Sivic Solutions software packages. We currently are using Web RMS, CFIS (County Finance Information System) and CFIS WIA. CFIS General Ledger is currently under development and we will be participating in the training and implementation of the general ledger software this fall. We are the state subject matter experts on all Sivic Solutions software.

Recommend corrective action plans and improvements in practice based on technical assistance discoveries, monitoring reviews and audit findings.

Interpret state and federal regulations and provide guidance accordingly.

Review fiscal policy and make recommendations for changes.

Provide input on development and implementation of Bureau goals based on technical assistance issues and problems.

Design or assist agencies in the design of forecasting and monitoring tools that allow the agencies to better manage state and federal allocations.

Prepare training materials and conduct quarterly regional trainings for all agencies.

Appellant is one of several members of a team comprised of employees who are internally referred to as "Fiscal Supervisors", since the team members appear to oversee a variety of fiscal functions but do not supervise any positions. The team members' respective positions were classified as MAS 2 and most of the team members appear to be "in holding" at the present time.

The "Fiscal Supervisor" team services every county in Ohio. DJFS divides the state into eight regions, with each region being assigned to one of the team members. The team members back each other up and can step in and cover another region as staffing needs dictate.

Appellant was previously assigned to the region that includes Franklin County. Due to funding shortages that left certain positions unfilled, Appellant volunteered to take another region of 14 counties that spans the state's east central border and runs all the way to and includes parts of Central Ohio.

Appellant has described his region as mostly rural in composition, although it does include Canton and a few additional medium sized cities. Appellant provides technical assistance to 24 agencies within his 14-county region. Appellant has stressed that, because of the composition of his region, it is particularly important that the assigned Fiscal Supervisor establish a rapport with and build the trust of the staff and officials with whom the Fiscal Supervisor interacts.

Appellant enjoys considerable independence in performing his duties in the field, where he meets with, assists, and advises fiscal officers and other staff for various county public assistance, child welfare, child care, and employment services agencies. He also meets with various Directors of pertinent county agencies and meets with County Commissioners on a periodic basis.

Joint Exhibit J is Appellant's contribution to the "MAS Classification Project", with which project this Board is well acquainted. Appellant has further elaborated on his "... Essential Duties Assigned and Performed", as follows.

Assist Fiscal Officers and Directors with the quarterly close process. This includes on sight [sic] meetings to review financial data for discrepancies and correctness. It also includes in house reviews of all agencies before financial data is finalized at the end of each quarter. [20 percent – Criticality 5 out of 5]

Training Directors and Fiscal Officers on creating financial research techniques and helping them build forecasting models to project future financial and service needs. [10 percent – Criticality 3 out of 5]

Meeting with Directors and Fiscal Officers to review on a regular basis the budgeting and forecasting models. The review can be to confirm the model is working for them, or to add modifications that will allow them to do different "what if" scenario[s] to their models. [20 percent – Criticality 4 out of 5]

Provide guidance to Directors and Fiscal Officers concerning staffing decisions for their agencies. This includes helping Directors determine if staffing reductions are required and if so which staff positions need to be eliminated. It also includes assisting agencies

exploring other staff cost options that will help meet budget limitations. [10 percent – Criticality 5 out of 5]

Research and review state and federal regulations to provide guidance to agencies concerning the allowable uses of state and federal allocations. As agency budgets are flat to shrinking and requests for services are increasing agencies are looking for new ways to meet client needs. To do that they are exploring new options with their allocations and that usually requires research to determine if the changes meet the state and federal guidelines for the proposed plan. [10 percent – Criticality 5 out of 5]

Review of all agency expenditures to spot potential budget shortfalls based on quarter end financials. Agencies are notified of any potential items and further analysis is done with the agency. [5 percent – Criticality 4 out of 5]

Special requests training for new county staff. These requests include Random Moment Sample (RMS) training for new RMS coordinators or supervisors who review RMS for their staff. There is [are] usually a few RMS reviews for all agency staff as a refresher and to help reinforce the importance to staff. They also include coding training for new clerical staff. [10 percent – Criticality 5 out of 5]

Preparation of statewide meeting/training materials and conducting statewide regional meetings for agencies. These meeting[s] usually involve some type of training [and] are always on current issues/topics. Our most recent quarterly meeting was on the new CFS Web financial reporting software. We trained on the certification of funds process for Public Children Services Agencies (PCSA) and the quarterly financial close process. Our upcoming meeting is on policy updates, WIA administrative costs, IV-D administration fees and IRS adjustments, and CFIS Web items of interest. [10 percent – Criticality 4 of 5]

Miscellaneous items such as addressing questions for monitoring, reviewing monitoring reports and providing assistance to agencies if needed. Also includes addressing any other requests from other bureaus within JFS. [5 percent – Criticality 2 of 5]

Based on the testimony presented and evidence admitted at hearing, I make the following Findings:

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

Next, I adopt Appellant's breakdown of duties and percentages of time, as presented, above.

CONCLUSIONS OF LAW

This case presents this Board with the question of whether Appellant's position is more properly classified as Fiscal Specialist 2, 66532 or ODJFS Program Administrator 1, 64291? Based on the findings set forth, above, and for the reasons set forth, below, this Board should find that the Fiscal Specialist 2 class provides the better fit with Appellant's position and affirm DAS' instant job audit determination.

Appellant's position is currently classified as FS 2. The Class Concept for FS 2 reads:

The second full performance level class works under direction & requires considerable knowledge of business administration &/or accounting in order to prepare biennial budget & monitor budget for assigned division or small-medium size institution or agency with no subordinate staff or to prepare & analyze various financial statements & cost/accounting reports for assigned agency.

Paragraph One of the Job Duties section for FS 2 states:

Prepares, evaluates & coordinates preparation of budget for assigned institution, division, agency or for fiscal program involving distribution of funding to other political subdivisions (i.e. class level can not [sic] be used in agency eligible to use Budget Analyst, 6325 series); or prepares & analyzes various financial statements, statistical & cost/accounting reports for agency ...

Paragraph Two of the Job Duties section for FS 2 states:

Prepares required fiscal & budgetary reports; reviews & authorizes requests for expenditures ...; reviews new initiatives or changes in current policy, reporting mechanisms, forms, rules & regulations to determine impact on budgetary operations assigned; prepares cash flow projections.

The last phrase in the Major Worker Characteristics component of the Job Duties section states that the FS 2 is to "... handle routine & sensitive inquiries from

& contacts with officials/representatives of same &/ or [sic] different political jurisdiction.”

Based on the findings set forth, above, I find that Appellant performs sufficient duties to qualify for the FS 2 class. Further, based on the record, it appears that Appellees are aware of the scope of independence under which Appellant performs and the level of individuals with whom Appellant interacts (including County Commissioners). Appellees also appear to be aware that this situation may suggest possible consideration regarding the designation of this position under R.C. Chapter 4117.

The Class Concept for ODJFS PA 1, 64291 reads:

The first administrative level class works under administrative direction & requires thorough knowledge of employment services management & administration in order to serve as assistant program administrator & assists higher-level program administrator in planning & developing program activities & to evaluate & coordinate activities of assigned program area, or to do all of the preceding & supervise staff.

Paragraph One of the Job Duties section for ODJFS PA 1 states:

Serves as assistant program administrator & assists higher-level program administrator in planning & developing program activities & evaluates & coordinates activities of assigned program area, directs implementation of policies & procedures & serves as liaison & coordinates information (e.g., reports status; federal & state rules & guidelines changes; management needs) between program administrator & staff &/or other agencies & private sector &/or general public, or to do all of the preceding & supervise staff.

DJFS has asserted that Appellant serves in an area that functions to support the programs of DJFS, such as child support, unemployment compensation, child care, and child welfare. (See Joint Exhibit D). Moreover, according to DJFS, the area in which Appellant works is not itself part of a program. Thus, it argues, Appellant could not serve as an ODJFS Program Administrator 1; because he does not serve as an assistant program administrator as required by the ODJFS PA 1 specification. Testimony reflects that DAS took this argument into consideration when determining the most appropriate class for Appellant’s position.

The term "program" is not defined in the ODJFS PA class series. However, DJFS' assertion seems to have some merit, since DJFS effectuates and monitors various programs, which are integral to its multiple missions.

In Joint Exhibit D, DJFS further argues that Appellant does not have statewide responsibilities and that his scope of responsibilities primarily involves the 14-county region of the state specifically assigned to him. It is Appellant's "Fiscal Supervisor" team, in its entirety, that may be said to have statewide responsibility.

The PA 1 class does not provide a good fit with Appellant's duties. This is because Appellant does not act as an assistant program administrator who solely assists one program administrator to administer a statewide program. Conversely, the FS 2 class appears to provide a better fit with Appellant's duties. Accordingly, I find that it was appropriate for DAS to reclassify Appellant's position to FS 2, following Appellant's request for a job audit.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the job audit determination of the Department of Administrative Services that Appellant's position be removed from its "holding" designation and be assigned the classification of Fiscal Specialist 2, 66532, pursuant to R.C. 124.03 and R.C. 124.14.


James R. Sprague
Administrative Law Judge