

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Ronald Kramer,

*Appellant,*

v.

Case No. 2014-REC-10-0265

Department of Transportation,  
and  
Department of Administrative Services,

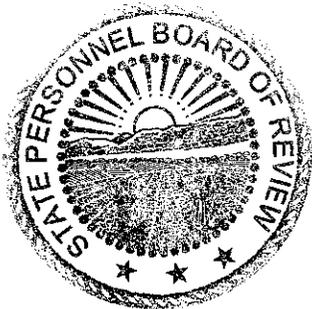
*Appellees,*

**ORDER**

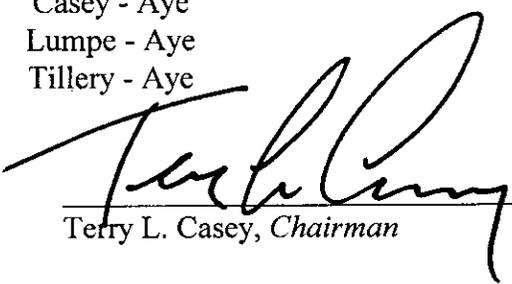
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellant's position be **RECLASSIFIED** to Transportation Engineer 4, classification number 85644, effective the first date of the first pay period following Appellee's receipt of the request for job audit.



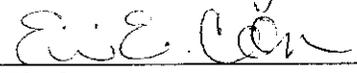
Casey - Aye  
Lumpe - Aye  
Tillery - Aye

  
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, January 21, 2016.

  
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 January 28, 2016.** 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-10-0265

Transcript Costs: \$114.00 Administrative Costs: \$25.00

Total Deposit Required: \* \$139.00

Notice of Appeal and Deposit Must  
Be Received by SPBR on or Before: February 5, 2016

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

Ronald Kramer,

Case No. 14-REC-10-0265

*Appellant*

v.

December 23, 2015

Department of Transportation,

and

Department of Administrative Services,  
Human Resource Division, Compensation  
& Workforce Planning,

*Appellee*

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on to be heard pursuant to Appellant's timely appeal of the results of an audit conducted on his position. The audit was conducted by Appellee's Central Office staff, with their recommendation forwarded to the Department of Administrative Services (DAS) for review. The audit resulted in a finding that Appellant's position was properly classified as Transportation Engineer 3, classification number 85643.

A record hearing was held in the matter on March 9, 2015. Appellant was present at record hearing and appeared *pro se*. Appellee Department of Transportation (DOT) was present through District 8 Design Engineer Doug Gruver, who is Appellant's immediate supervisor, and Central Office Human Resources Manager Brian Brown, who conducted the audit of Appellant's position.

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 requested an audit of his position in July 2014. He completed and submitted an audit questionnaire outlining his duties and responsibilities as part of the audit process. Appellant was notified on or about September 18, 2014, of DAS' determination that his position was properly classified as Transportation Engineer 3, classification number 85643, which represented no change in the classification of his position.

Appellant has held the position of District 8 Bridge Design Engineer for more than 10 years. He reports to District Design Engineer Doug Gruver, who oversees all of the design disciplines in the District 8 Engineering Section. The primary purpose of Appellant's position is to ensure that the bridges in DOT District 8 are designed in accordance with departmental standards and guidelines, as well as federal and state laws and guidelines. Once a construction contract has been awarded, Appellant provides assistance to Construction Administration on matters pertaining to bridges.

Appellant acts as a staff specialist in District 8, taking the lead on bridge design engineering issues as they arise. He interprets and applies existing district policies and recommends policy modifications when needed to accommodate special situations. Because so much of the geographic area covered by District 8 is urban, Appellant acts as a consultant for a great deal of his time.

Appellant develops criteria and prescribes specific construction methods related to bridge design to adapt to field observations, testing, and changing construction practices. He not only manages complex construction projects, but also administers contracts for complex construction projects that have been bid out, to ensure that contractors are in compliance with applicable laws, policies and guidelines. Appellant approves structural designs and hydraulic analysis for both major and minor projects. He approves variants, as well as structural and material changes to allow for unusual situations.

Appellant acted as the project manager for Appellee's first Design-Acquire-Build project, which helped to facilitate development of the statewide Design-Acquire-Build program. He serves on both internal and external committees. Appellant is a registered professional engineer and signs plans and other engineering documents as needed. Appellant works independently and manages his own work load. He provides information to his supervisor regarding project budgets, evaluates contractor performance, and makes recommendations to assist with long range planning for the section.

### CONCLUSIONS OF LAW

Pursuant to 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 R.C. 124.14(D). R.C. 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.

\* \* \* \* \*

In conducting the review of Appellant's job duties, the Transportation Engineer classification series was considered, specifically the class titles for Transportation Engineer 3, class number 85643, Transportation Engineer 4, class number 85644.

The class concepts for both the Transportation Engineer 3 classification, which is the classification presently assigned to Appellant's position, and the Transportation Engineer 4 classification, which is the classification Appellant believes more accurately describes his job duties, provide that an incumbent employee must either act as a supervisor or:

... act as staff specialist in District or Central Office [and] sign plans &/or other engineering documents as registered professional engineer ...

A review of the classification specifications for each classification indicates that the term "staff specialist" is defined differently by the Transportation Engineer 3 specification and the Transportation Engineer 4 specification, with the language contained in the illustrative job duties section of each classification mirroring that found in the glossary section of the classification series purpose statement. At the

Transportation Engineer 4 level, which is the classification sought by Appellant, a "staff specialist":

... develops engineering policies & plans projects concerned with unique or controversial problems which have significant impact on major organizational programs, keeps abreast of new scientific methods & developments affecting department & recommends changes in emphasis of programs or new programs warranted, implements departmental policies & programs in administration of contracts involving multiple complex projects, programs & directives & develops &/or revises policies & directives based on field observation & testing.

While Appellant does not have final authority to approve engineering policy, he does make recommendations based on his field observations and has the authority to tailor existing policy when necessary to accommodate specific projects that involve unusual conditions or situations. Appellant plans projects which have significant impact on major organizational programs, such as the Design-Acquire-Build program, and he implements departmental policies and programs in the administration of contracts involving multiple complex projects. I find that Appellant performs duties sufficient to meet the definition of "staff specialist" as applied to the Transportation Engineer 4 classification. I further find that Appellant signs plans and other engineering documents as registered professional engineer. Appellant performs these duties for at least 20% of his work time. Accordingly, I find that Appellant satisfies the class concept for the Transportation Engineer 4 classification and his position may be properly placed in that classification.

Based upon the above analysis and review, I find that the classification which most accurately reflects the duties performed by Appellant is Transportation Engineer 4, classification number 85644, and I respectfully **RECOMMEND** that his position be **RECLASSIFIED**, effective the first date of the first pay period following Appellee's receipt of the request for job audit.

  
Jeannette E. Gunn  
Administrative Law Judge