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

Shirri Wright Connor,

*Appellant,*

v.

Case Nos. 2015-REC-08-0143
2015-RED-08-0144
2015-MIS-08-0145
2015-REC-09-0175

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

*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 the review determination of the Department of Administrative Services that Appellant's position should be RECLASSIFIED to Financial Program Manager, 66585, is **AFFIRMED** pursuant to R.C. 124.03 and R.C. 124.14.

Casey - Aye
Tillery - Aye
McGregor - 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, August 19, 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 August 26, 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: 2015-REC-08-0143

Transcript Costs: $267.00 Administrative Costs: $25.00

Total Deposit Required: * $292.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: September 6, 2016

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

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|---|---|
| Shirri Wright-Connor | Case Nos. 2015-REC-08-0143 |
| | 2015-RED-08-0144 |
| *Appellant* | 2015-MIS-08-0145 |
| | 2015-REC-09-0175 |
| v. | July 18, 2016 |
| Department of Rehabilitation and Correction | |
| and | |
| Department of Administrative Services, | |
| | James R. Sprague |
| *Appellees* | *Administrative Law Judge* |

## REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

Appellant, Shirri Wright-Connor, timely appeals her reclassification from Fiscal Officer 2, 66536, Pay Range 14 to Financial Program Manager (FPM), 66585, also Pay Range 14. Appellant also filed three other appeals related to this same subject matter.

Additionally, Appellant's position underwent a brief lateral reclassification during the pertinent review period. However, that reclassification has been mooted by Appellant's subsequent reclassification to FPM.

The record hearing occurred June 29, 2016. Appellant appeared *pro se*. Appellant's supervisor, Roberta Banks, Administrative Officer (AO) 3, appeared on behalf of the Department of Rehabilitation and Correction (DRC) and was represented by Ami Parmi, DRC Staff Counsel. Human Capital Management Senior Analyst Jessica Gerst appeared on behalf of the Department of Administrative Services (DAS).

An issue was raised by DRC at the hearing regarding whether certain information that Appellant had initially submitted to this Board was protected by HIPAA and, thus, barred from disclosure. At hearing, Appellant again sought to present this information. However, when DRC raised the issue of a HIPAA bar at hearing, Appellant chose not to present this information.

On July 7, 2016, DRC filed a motion to seal the record for the limited purpose of avoiding public disclosure of the two items that appeared to be impacted by this

HIPAA concern. Appellant was provided with time to file a response to Appellee's motion to seal, but to date has chosen not to file a response. Based on DRC's motion and without objection from Appellant, *the instant record is hereby **SEALED** only as to the two items referenced in DRC's motion.*

Jurisdiction was established pursuant to R.C. 124.03 and R.C. 124.14.

## CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

Appellant seeks reclassification to a higher level classification in the Financial Manager, 6658 class series. Appellant's position was reclassified to Financial Program Manager, 63315, Pay Range 14. Her position was reclassified as a result of the "Fiscal Reclassification Project" which was part of a class plan review conducted by DAS in 2014-2015. Appellant's effective dates of reclassification were July 26, 2015 and August 23, 2015. At hearing, Appellant Wright-Connor, Roberta Banks, and Jessica Gerst testified.

Appellant testified that she works in DRC's Office of Administration in what is tantamount to the business office. Appellant is supervised by Roberta Banks, AO 3. Ms. Banks reports to Deputy Director Kevin Stockdale, the Business Operations Manager.

Appellant essentially acts as the official and formal designee of DRC's Chief Financial Officer (CFO) for administration of the Payment Card ("P Card") program for DRC. The P Card program is a program that utilizes electronic purchasing cards that are assigned to various state personnel for certain purchasing. The P Card is designed to lead to a more efficient and less labor intensive purchasing process. It is also designed to facilitate efficient and rapid tracking of state purchases.

The record reflects that the Office of Budget and Management (OBM) promulgates rules and procedures to effectuate the P Card program. OBM regulates the use of the program and can suspend or revoke a user's P Card privileges for repeated violations of same.

OBM and the CFO of DRC have entered into an agreement regarding DRC's utilization of and obligations under the P Card program. The CFO has formally designated Appellant to administer this program on behalf of the CFO under the above-referenced parameters. As one might imagine, as the State's largest agency, DRC makes wide-spread use of P Cards and, cumulatively, those purchases constitute a large sum of money.

In carrying out these duties, which encompass about 60 to 75 percent of Appellant's average working day, Appellant interacts with various administrative and supervisory levels of personnel. Sometimes, Appellant provides specific direction to these individuals regarding the application of the P Card program. This program direction can impact both these individuals and their subordinates.

For about 10 percent of her average working day, Appellant monitors one or more of the contracts into which DRC has entered pertaining to random drug testing for the State Tested Nursing Assistants (who staff various DRC medical facilities). For about five percent of her average working day, Appellant performs duties that involve the Warehouse Application program. For the remainder of her average working day, Appellant performs miscellaneous duties that can include attending meetings.

Appellant does not perform effective supervision over any positions, as defined in O.A.C. 123: 1-7-15. She has no subordinates, but she emphasizes that she can direct others related specifically to the P Card program.

In performing her work, Appellant manages and coordinates the P Card program, which constitutes a financial and/or sourcing program. In doing so, she exercises considerable autonomy in enforcing and implementing program policy.

Based upon the testimony presented and evidence admitted at hearing (and expressly excluding the two exhibits and one DVD under seal in this matter), I make the following Findings:

I incorporate any finding set forth, above, whether express or implied. I also adopt the percentages of duties that Appellant offered at hearing.

## CONCLUSIONS OF LAW

This case presents this Board with the question of whether an employee, who administers the entire P Card program for Ohio's largest state agency on behalf of its CFO, but who does not supervise, should remain classified as Financial Program Manager? Since Appellant's duties fit squarely within the FPM class specification, Appellant's position should remain classified as Financial Program Manager.

I take administrative notice of the classification specifications for the Financial Manager, 6658 series.

The Class Concept for Financial Program Manager, the first level in the Financial Manager class series, states:

> The administrative level class works under direction and requires considerable knowledge of business administration & accounting in order to manage & coordinate a budget, financial &/or sourcing program & have significant autonomy to formulate, develop, enforce &/or implement program policy.

As might be expected, the FPM requirements set forth in the Job Duties in Order of Importance ("Job Duties") section of the FPM specification track closely with the Class Concept of the FPM specification.

The record clearly establishes that Appellant manages and coordinates the P Card program (a financial and/or sourcing program). Moreover, it clearly establishes that Appellant has significant autonomy in enforcing and implementing program policy. Appellant's duties, then, unquestionably meet the Class Concept and, correspondingly, qualify under the Job Duties section of the FPM specification. Thus, the FPM classification provides an excellent fit with Appellant's duties.

Appellant suggested that a higher level classification in the Financial Manager class series would better fit her duties and responsibilities.

The Class Concept for Financial Manager (FM), the second level in the Financial Manager class series, states:

> The first managerial level class works under general direction and requires extensive knowledge of business administration & accounting in order to coordinate & manage multiple work units &/or programs <u>& supervise program manager(s) &/or unit supervisor(s)</u> OR serve as agency APO, CBO or COA <u>& supervise assigned staff</u>. (emphasis added)

The Job Duties section of the FM specification contains two separate and independent groupings. In each of those two groupings, supervision of staff is set out in the first (and most important) rank. Thus, if an incumbent does not supervise subordinate staff, that incumbent clearly cannot qualify for the FM class.

Appellant does not perform effective supervision of any staff. Thus, her position cannot qualify for the FM class.

The fact that Appellant does enforce P-card program rules with staff does not equate to the general requirement of supervision. Supervision entails evaluating employee performance, initiating or effectively recommending discipline if necessary, approving leave requests, and providing work direction, all of which the supervisor performs in relation to his or her direct reports.

In closing, I note that Appellant performs an important job, being in charge of the P Card program for Ohio's largest state agency. DRC's CFO and Appellant's supervisor have entrusted Appellant with considerable authority and autonomy in carrying out her duties.

The lack of supervision duties does not diminish the great value of Appellant's good work in any way. However, it is definitive with regard to the correct classification which cannot be Financial Manager.

**RECOMMENDATION**

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the review determination of the Department of Administrative Services that Appellant's position should be **RECLASSIFIED** to Financial Program Manager, 66585, pursuant to R.C. 124.03 and R.C. 124.14.

James R. Sprague
*Administrative Law Judge*