

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Shelley Swartztrauber,

Appellant,

v.

Case No. 2015-REC-03-0024

Montgomery County Child Support Enforcement Agency,

Appellee,

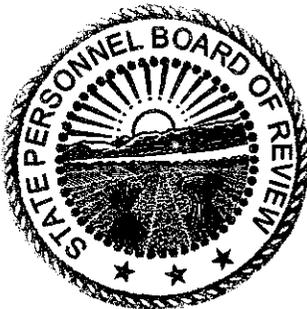
ORDER

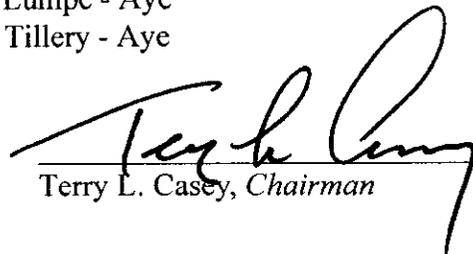
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Montgomery County Human Resources Department be **MODIFIED** and Appellant's position be **RECLASSIFIED** to JFS Deputy Assistant Director, 61819, 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, April 22, 2016.


Eric E. Conn
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 April 29, 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-03-0024

Transcript Costs: \$165.00 Administrative Costs: \$25.00

Total Deposit Required: * \$190.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: May 9, 2016

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

Shelley Swartztrauber

Case No. 2015-REC-03-0024

Appellant

v.

March 8, 2016

Montgomery County Child Support
Enforcement Agency

James R. Sprague
Administrative Law Judge

Appellee

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This case came to be heard at record hearing on December 14, 2015. Present at hearing was Appellant, who was represented by Michael A. Moses, Attorney at Law. Appellee, Montgomery County Child Support Enforcement Agency (MCCSEA), was present through its designee, Sarah Fields, Job and Family Services (JFS) Assistant Director, and was represented by Todd M. Ahearn, Assistant Prosecuting Attorney.

This cause came on due to Appellant's March 6, 2015 filing of an appeal from a job audit determination that Appellant's position was properly classified as Job and Family Services (JFS) Manager, 69316CHS-MONT. Appellant asserts that her position would be better classified as JFS Deputy Assistant Director, 61819.

Jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

Prior to going to hearing, the parties tried for several months to amicably resolve their differences but were unable to do so.

Further, by agreement of the parties, the parties submitted simultaneous written closing arguments on or before January 12, 2016. Since it appeared that the record was incomplete on several issues, on January 20, 2016, the undersigned then issued a Procedural Order for respective counsel to file responses addressing

four specific areas. Respective counsel were also permitted to comment on their respective submissions. Respective counsel timely filed their responses on February 19, 2016. Both chose to forego their opportunity to file replies to same. Accordingly, the instant record closed on March 2, 2016.

The four areas presented in that Procedural Order follow:

1. Please define and comment upon the term "general direction" as found in the Class Concept of the Classification Specification for Job and Family Services Manager.
2. Please define and comment upon the term "higher level administrators" as found in Rank 1 of the Classification Specification for Job and Family Services Manager.
3. Please define and comment upon the terms "administrative direction", "administrative responsibility", and "administrative level" as found in the Classification Specification for JFS Deputy Assistant Director.
4. Please explain and comment upon what impact, if any, the approximate June 15, 2015 addition of two Deputy Directors into the hierarchy of the Montgomery County Department of Job and Family Services has upon the potential qualification of Appellant's position for the Classification of JFS Deputy Assistant Director.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

At hearing, three witnesses testified.

Testifying first was **Appellant, Shelley Swartztrauber**, who serves as the JFS Manager over the MCCSEA Call Center and over both the Fiscal and Accounting Units of the MCCSEA.

Testifying next was **Sarah Fields**, JFS Assistant Director, who served as Appellant's supervisor for all times pertinent to this appeal. Ms. Fields' areas of responsibility include but are not necessarily limited to all of Appellant's areas as well as MCCSEA's Legal Division.

Last to testify was **Regina Marks**, a Human Resources (HR) Representative with the Montgomery County Human Resources Department (MCHRD), which

oversees most of the HR functions for Montgomery County government. Ms. Marks conducted the pertinent job audit of Appellant's position.

Appellant oversees approximately 71 positions in her division which includes three units: the CSEA Call Center; the CSEA Fiscal Unit; and the CSEA Accounting Unit. Testimony reflects that the Call Center set-up is unique in Ohio because its staffers are actually Case Workers who generally serve three hours of their eight-hour day staffing the Call Center.

When they are staffing the Call Center, these Case Workers directly answer routine questions from users. Yet, they *also* directly answer more complex questions from users.

We may contrast this with most Counties. There, the user with a more complex question must actually be *referred on* to a Case Worker whose higher level of subject matter knowledge allows the Case Worker to answer the user's inquiry.

Appellant also balances out workers between her units to maximize both call responsiveness and collections revenue. She also recommends to HR when a job posting is needed for a position under her supervision and effectively recommends candidates for hire to HR.

Appellant also serves on a variety of internal and external committees. Moreover, she serves as the division's pre-disciplinary hearing officer and as the employer representative at Step 2 and Step 3 grievance proceedings.

Appellant develops internal policies (particularly drafts for internal procedures) based either on agency internal changes or on state mandates. This is particularly true when the procedures involve child support or when her CSEA division and the CSEA Legal Division are involved with the new/revised procedures. Appellant's drafts are routinely approved by her superiors.

Appellant also noted that she assists and helps coordinate with the JFS Ombudsman, the Quality Assurance Unit and Coordinators, and the Training Coordinator. Appellant indicated that her supervision of the Call Center and the Fiscal and Accounting Unit, her involvements with HR and staffing functions, and her development of procedures consume the largest percentages of her time.

Appellant also indicated that, in more recent years, her position has generally performed additional higher level management functions and specifically has performed more program oversight.

Appellant testified that she performed the duties of Ranks 1 through 4 of the JFS Deputy Assistant Director Specification for the following percentages of her average working day or week. For Rank 1: approximately 40 percent; for Rank 2, approximately 30 percent; for Rank 3, approximately 20 percent; and for Rank 4, approximately 10 percent.

Appellant also offered that she met the minimum qualifications for the Deputy Assistant Director Classification. This includes possessing the requisite degree and possessing the requisite minimum experience time including time in management.

Appellant serves as one of the two backups for Assistant Director Fields in her absence. Appellant performs this function when she is in the office and the Legal Division Manager is out of the office and *vice versa*. If both Appellant and the Legal Manager are present, then the issue is directed to the one best suited to deal with the issue, by virtue of that person's area of expertise. Otherwise, if both are in the office, then Deputy Director Fields has instructed that the backup function rotate evenly between Appellant and the Legal Division Manager.

In referring to Rank 2 of the Deputy Assistant Director Specification, Assistant Director Fields did indicate that Appellant does not have that much to do with budgeting and even Ms. Fields is only involved in budgeting to some degree. Ms. Fields indicated that most of the budget work is done by the Fiscal Office.

MCHRD HR Representative Regina Marks testified that she conducted the audit of Appellant's position. Ms. Marks averred that she reviewed the submissions by Appellant and Appellant's Manager and personally interviewed both (Parenthetically, MCHRD is to be commended for conducting personal interviews with the pertinent participants in this audit).

Thereafter, Ms. Marks reviewed the JFS Manager Specification and found that Appellant essentially performed the duties of the Classification. Appellant concurs that, at a minimum, Appellant performs these duties.

Ms. Marks declared that she discerned nothing significant that would require a change in Appellant's Classification. Ms. Marks noted that the MCHRD's "rule" or more specifically its "standard practice" has been to potentially reclassify a position if the incumbent's duties have changed by greater than 50 percent during the pertinent time period at issue.

She also indicated that, subsequent to the issuance of the audit findings, she did compare the JFS Manager Specification to the JFS Deputy Assistant Director Specification. She stated that there are similarities in the two Classes. For example, she offered, the incumbent in each is to provide regular administrative direction to subordinate management staff.

She also averred that various components within the departments such as JFS and Environmental Services have in-house HR staff, yet MCHRD oversees HR functions for the County as a whole. She also stated that many supervisors hear grievances, issue low level discipline, and perform job coaching and counseling. She indicated that 90 to 95 percent of recommendations in the disciplinary area go to the MCHRD for review and approval, or up to the Board of Commissioners depending on the severity of the case.

Labor and management meetings are also attended by managers, union representatives, supervisors, and subordinates, she offered. She indicated that many supervisors are provided with authority to shift staff based on operational need.

Based upon the testimony presented and evidence admitted at hearing, upon the parties' submitted written closing arguments, and upon the parties' submitted supplementations of the record, I make the following Findings:

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

I also find Appellant's description of her duties, as supplemented by the description of same offered by Deputy Director Fields, to be accurate.

CONCLUSIONS OF LAW

This case presents this Board with the question of whether Appellant's position is more properly classified as JFS Manager or JFS Deputy Assistant

Director? Based on the findings set forth, above, and for the reasons set forth, below, this Board should find that Appellant's position is better classified as Deputy Assistant Director.

There is no dispute in the record that, at a minimum, Appellant performs substantially all of the duties listed in the Specification for JFS Manager. 69316CHS-MONT. However, in order to compare and contrast the JFS Manager Specification with the JFS Deputy Assistant Director, 61819 Specification, we must at least include a portion of the language of the JFS Manager Specification.

The Class Concept for the **JFS Manager** Specification states:

Specialized professional level in the job and family services occupation requiring considerable knowledge of job and family services; under general direction, plans, organizes and coordinates assigned functions and supervises 2 or more job and family services supervisors and other assigned staff engaged in providing assistance to those eligible for entitlement programs, child support, employment programs and related services including investigation of eligibility of participants.

Rank 1 of the JFS Manager Specification states, in part:

Assists higher level administrators and managers in developing and implementing programs. Makes recommendations relative to programs, implements changes and provides follow-up on same. Assigns and monitors work load. Prepares and reviews weekly, monthly and quarterly reports. Documents, reviews and maintains work load activity

The Class Concept for the **JFS Deputy Assistant Director** Specification states:

Under administrative direction from agency &/or assistant director or other administrative supervisor, manages day-to-day activities & operations of the division; has administrative responsibility for the management & oversight of major program area(s) & overall supervision of units within the division; establishes & interprets

program policy, procedures & objectives; meets with & maintains contact with public service agencies; may act as assistant director in his/her absence.

As would be expected, Rank 1 through Rank 4 of the JFS Deputy Assistant Director Specification amplify, but do not amend, the language of the JFS Deputy Assistant Director Class Concept, presented, above.

Based on the parties' supplementations of the record, I find that Appellant's reporting to Assistant Director Sarah Fields in conjunction with Appellant's exercise of independent decision-making at her level demonstrate that Appellant's position qualifies for the first phrase in the JFS Deputy Assistant Director Class Concept. Moreover, Appellant meets the remaining requirements set forth in the Class Concept. This includes Appellant effectively recommending the creation and/or modification of policies and/or procedures pertinent to her division and sometimes beyond.

It is true that Appellant's duties do not appear to have changed recently and certainly not to the 50 percent level of change sought by the MCHRD. Thus, it is understandable that the MCHRD chose to keep Appellant in her current Class of JFS Manager.

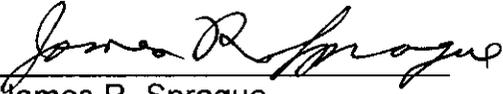
What appears equally true, however, is that Appellant may have already been performing the more advanced duties of JFS Deputy Assistant Manager before the commencement of her audit. Thus, Appellant's audit would not necessarily have revealed when Appellant began performing her enhanced duties.

To summarize, the record supports the conclusion that Appellant is currently performing and has, for the entire review period, been performing the duties of the JFS Deputy Assistant Director. Accordingly, her position should be so reclassified.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the job audit determination of the Montgomery County Human Resources Department and **RECLASSIFY** Appellant's position to JFS Deputy Assistant Director, 61819, pursuant to R.C. 124.03 and R.C. 124.14.

Shelley Swartztrauber
Case No. 2015-REC-03-0024
Page 8


James R. Sprague
Administrative Law Judge