

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

Victoria Davidson,

Appellant,

v.

Case No. 2015-REC-04-0055

Department of Youth Services,
and
Department of Administrative Services,

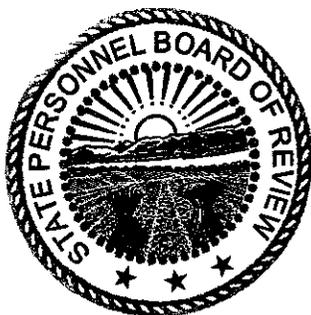
Appellees,

ORDER

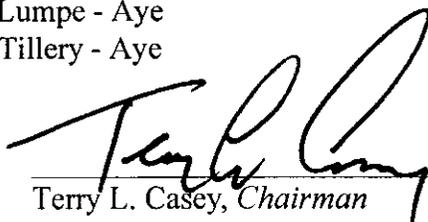
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellant's position be **RETAINED** in the Administrative Professional 4 classification.



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.



Anne 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-04-0055

Transcript Costs: \$75.00 Administrative Costs: \$25.00

Total Deposit Required: * \$100.00

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

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

Victoria Davidson

Case No. 15-REC-04-0055

Appellant

v.

March 23, 2016

Department of Youth Services,
Central Office,

and

Department of Administrative Services,
Human Resource Division/Compensation and
Workforce Planning,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration pursuant to Appellant's timely appeal of the results of a job audit performed on her position. A record hearing was held in the instant appeal on October 14, 2015. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Youth Services (DYS) was present at record hearing through its designee, Assistant Chief Legal Counsel Marla Burton; Appellee DAS was present at record hearing through its designee, Human Capital Management Senior Analyst Amber Shedd.

Jurisdiction of the Board was established pursuant to R.C. 124.03 and 124.14.

**CONSOLIDATED STATEMENT OF THE CASE
AND FINDINGS OF FACT**

Appellant is employed by Appellee DYS in a position classified as Administrative Professional 4. Appellant's position is assigned to the Bureau of Information Technology Services (ITS). Her immediate supervisor is DYS Chief Information Officer Jim Miller, whose position is classified as Information Technology Manager 2.

Appellant filed a request for a position audit in April 2015; after performing the audit, Appellee Department of Administrative Services (DAS) concluded that Appellant's position was correctly classified as an Administrative Professional 4. Appellant believes that the Program Administrator 2 or Program Administrator 3 classifications more accurately describe her job duties.

Appellant testified at record hearing that the primary purpose of her position is to manage the mobile and cellular devices assigned to agency employees. She estimated that 35% of her working time is devoted to tasks related to this responsibility and noted that she purchases equipment, coordinates asset tagging and tracks usage for these devices. Appellant noted that although she does not have final approval authority, she has assisted in drafting policies and procedures for agency mobile and cellular devices. She corresponds with Appellee's third party vendor, Mobile Wireless Management Service (MOBI) regarding cellular phones and service plans.

Appellant indicated that she also serves as inventory coordinator for ITS. She explained that she receives new equipment (e.g., laptops, personal computers, scanners and printers) reconciles shipments with packing slips, and asset tags equipment prior to its being distributed to agency employees. Appellant testified that she assisted in the development of procedures for maintaining and transferring agency assets from the ITS inventory. She is also responsible for oversight and tracking of all equipment retired from use and sent to State surplus/salvage. Appellant spends approximately 25% of her working time performing duties related to inventory management.

Appellant provides general administrative support to ITS. She oversees payroll preparation and the completion of timekeeping forms. Appellant communicates instructions and assignments from her supervisor to appropriate

staff; she takes minutes at meetings and represents her supervisor at Central Office meetings as directed. Appellant coordinates the acquisition of office supplies, maintains her supervisor's calendar, routes telephone calls to the appropriate staff and greets visitors. She is the bureau coordinator for the Combined Charitable Campaign. Appellant acts on behalf of her supervisor with regard to routine tasks and general information. She interprets policy and procedures to make decisions regarding day to day activities. Appellant assists in drafting departmental goals and departmental policies, however, her supervisor is the individual responsible for making any recommendations regarding goals or policies to the division manager. Approximately 20% of Appellant's working time is spent performing duties of this nature.

Appellant coordinates fleet management for the bureau of ITS and devotes approximately 10% of her working time to related tasks. She schedules and assigns vehicles to ITS staff and schedules vehicle repair and maintenance. Appellant examines vehicles for repairs or damage and prepares monthly reports for Central Office Inventory Control. The remaining 10% of Appellant's time is spent performing duties related to the Service Now and assisting with Help Desk questions.

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.

* * * * *

The classification series for Inventory Control, Administrative Professional, and Program Administrator were considered in conducting the review of Appellant's job duties.

The purpose of the Inventory Control occupation is to receive, inspect, record and distribute materials, supplies, equipment, furniture and vehicles, and maintain accurate records of all inventoried items for an assigned agency. The class concept for the lowest level of this class provides that incumbents receive, inspect, record and distribute materials, supplies, and equipment throughout central office and district offices, or on a district-wide or institution-wide basis control and coordinate inventories for institution to include all assets such as equipment, furniture or

vehicles. The class concept for the middle level of the class states that incumbents maintain extensive agency-wide/statewide inventory such as furniture, equipment, or vehicles and develop, implement, and enforce policies and procedures on inventory control.

Appellant testified that she maintains Appellee's inventory of mobile and cellular devices. She indicated that she performs many of the illustrative job duties of incumbent employees at the lowest level of this class, including receiving, inspecting, recordings and distributing mobile devices and other equipment throughout the agency; assigning asset numbers and tags; and oversight and tracking of equipment that has been retired from use and sent to surplus/salvage. Sixty percent of Appellant's working time is devoted to performing tasks associated with managing mobile and cellular devices assigned to agency employees and inventory management. Appellant does not, however, develop policies and procedures for inventory control. I find that Appellant's position, if placed in this classification series, would be most appropriately classified as Inventory Control Specialist 1, classification number 64551.

The purpose of the Administrative Professional occupation is to function as principal clerical and administrative support for a supervisor and/or office staff, performing a variety of clerical, procedural and administrative tasks. The class concept for the Administrative Professional series states that incumbents relieve their superior of routine and non-routine administrative tasks and perform secretarial duties, with the higher levels providing supervision to other support staff.

Appellant's position is presently classified as Administrative Professional 4. The class concept for Administrative Professional 4 requires an incumbent employee to provide secretarial and non-routine administrative support (i.e. independently formulate decisions and/or judgments involving non-legal interpretation of policies and procedures as they would apply to a given situation to resolve problems, to prepare correspondence and/or reports or to carry out other assignments). Testimony and evidence admitted at record hearing indicates that Appellant interprets policy and procedures to make decisions regarding day to day activities and provides secretarial support to her supervisor. She performs duties of this nature for approximately twenty percent of her working time. Therefore, I find that her position may properly be placed in the Administrative Professional 4 classification. See, O.A.C. 123:1-7-15.

The purpose of the Program Administrator occupation, which Appellant believes more accurately describes her job duties, is to provide program direction by relieving an incumbent's superior of administrative duties. The class concepts for the Program Administrator series state that incumbents at the lowest level relieve their superior of non-routine administrative duties; at the secondary level they relieve their superior of difficult duties; and at the highest level they relieve their supervisor of the most difficult administrative duties. At all levels, incumbents formulate and implement program policy.

Appellant does relieve her supervisor of some administrative responsibilities, however, the classification series requires incumbents at all levels to formulate and implement program policy. No evidence or testimony was presented at record hearing to support a finding that Appellant formulates or implements program policy. Testimony further indicated that Appellant's duties are not undertaken with the intent of providing program direction. Accordingly, I find that Appellant's position may not be properly placed in a classification in the Program Administrator series.

Appellant's position fulfills the class concept of both the Inventory Control Specialist 1 classification specification and the Administrative Professional 4 classification specification, however, the Administrative Professional 4 classification specification reflects the higher-level job duties performed by Appellant. While it is true that an employee should be placed in the classification that most nearly describes and matches the tasks that are performed, where an employee could be classified in either of two classifications, the employee should be placed in the higher of the two. *Nibert v. Ohio Dept. of Administrative Services* (Jan. 17, 1992), Franklin Co., No. 91CVF-07-5825, unreported. The Administrative Professional 4 classification, class number 16874, is assigned to a higher pay range than the Inventory Control Specialist 1 classification, class number 64551.

Therefore, I respectfully **RECOMMEND** that Appellant's position be **RETAINED** in the Administrative Professional 4 classification.


Jeannette E. Gunn
Administrative Law Judge