STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Enid Fisher,

Appellant,

v. Case No. 2015-REC-08-0156

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

Appellees,

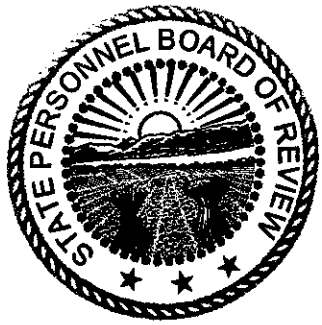
ORDER

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. *The Board notes that O.A.C. 123: 1-7-15 requires that, in order to qualify as a supervisor, the incumbent must supervise at least two full-time equivalent positions, which Appellant does not do. Since Appellant does not supervise, the record would not benefit from Oral Argument in this matter. For this reason, Appellant's request for Oral Argument is respectfully denied.*

Wherefore, it is hereby **ORDERED** that the review determination of the Department of Administrative Services to reclassify Appellant's position from the holding class of Management Analyst Supervisor 1 to Grants Coordinator 2, Job Code 63162, 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, September 13, 2016.

Eric E Cen

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 September 20, 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-08-0156

Transcript Costs: $189.00 Administrative Costs: $25.00

Total Deposit Required: * $214.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: September 28, 2016

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Enid Fisher

Appellant

v.

Ohio Dept. of Job and Family Services

and

Ohio Dept. of Administrative Services

Appellee

Case No. 2015-REC-08-0156

July 1, 2016

Raymond M. Geis
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

Appellant, Enid Fisher ("Fisher"), timely appeals her reclassification from Management Analyst Supervisor 1, Pay Range 12, Exempt (from collective bargaining) to Grants Coordinator 2, Pay Range 30, in the OCSEA bargaining unit. The record hearing occurred on June 24, 2016.

Appellant Enid Fisher ("Fisher") was represented by Attorney Michael A. Moses. Attorney Nicole S. Moss represented the Ohio Department of Job and Family Services ("ODJFS"). Nancy Jansco-Kocarek, HCM Manager served as the ODJFS designee. Jeff Hazelton, HCM Sr. Analyst appeared on behalf of the Ohio Department of Administrative Services ("DAS").

The Management Analyst series, to which Fisher was assigned before reclassification, was a designated "holding" class that is no longer in existence. As part of amendments to the statewide classification system, employees in this abolished holding class were reallocated to current classifications.

Fisher seeks restoration to an exempt classification and upgrade to either Project Manager/IT Project Manager 1 (63381), Pay Range 15 or Human Services Program Administrator 3 (69417), Pay Range 14.

Fisher testified first, followed by Supervisor Jennifer Johnson, ODJFS Program Manager 1, and then DAS representative Jeff Hazelton.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

Summary of Testimony of Appellant, Enid Fisher

Fisher works in the Office of Family Assistance and interacts with three federal refugee welfare grants. On behalf of ODJFS, she periodically re-applies for federal grants through a competitive process. Federal grants come through the "Older Refugee Grant", "Refugee Student Impact Grant" and "Young Adult Refugee Program." These grants are not block grants.

Once funding is re-secured, Fisher develops a budget for the monies and consults with various non-governmental organizations such as the refugee resettlement committee in order to identify and recruit community providers who can use the funds in accordance with the three grants awarded to ODJFS.

In practice, Fisher already has developed ongoing relationships with providers. The providers are highly specialized and there is little change over. Along with her supervisor, Fisher monitors providers that receive funds flowing through the grants. Fisher answers questions from providers. She also reviews reporting supplied by the provider and consults with her supervisor for help in identifying non-conforming usage of funds. Fisher will contact the provider to negotiate remediation. According to Fisher, this does not occur very often.

Fisher reviews invoices from the providers. Providers seek reimbursement through ODJFS for activities carried out under their service agreement with ODJFS. Fisher approves the invoices, and then sends them on to her supervisor for another series of approvals before going to the Office of Shared Services for eventual payment.

Fisher describes her work in terms of "keeping the grant moving" meaning she checks to ensure expenditures by providers are within budget and that services are performed by the deadlines. She also tracks the internal approval process for reimbursement so that distribution of monies is timely.

When a payment rejection occurs, Fisher finds out the cause and may author an appeal. She states she spends about 70% of her time or 5.6 hours per day "managing" the three grants.

Fisher states that she spends an average of about 10-15% or 1.2 hours per day on data extraction. She notes that this is cyclical, and most of this work occurs during a scheduled period.

Finally, Fisher spends about 10% of her time with reporting and that this occurs twice per year.

Fischer uses computerized software systems to track her grants.

Summary of Testimony of Supervisor Jennifer Johnson

Johnson listened to Fisher's testimony and states that she agrees Fisher is responsible for the three grants as follows: (1) Fisher writes the initial grant applications and renewals; (2) Fisher manages the grant application process; (3) Fisher approves invoices and; (4) Fisher handles reporting.

Johnson has not observed Fisher using the SAVE computer system to verify whether students in a refugee welfare program qualify as refugees under federal law. However, Johnson agrees that if this work is performed, it is part of monitoring.

Summary of Testimony of DAS Representative Jeff Hazelton

Hazelton testified after listening to the testimony of Fisher and Johnson he re-affirms his determination that Fisher is properly classified as a Grants Coordinator 2. He bases his conclusion by characterizing Fisher's work as coordinating ODJFS' participation in grants and then monitoring those grants using business intelligence software.

Hazelton also regards Fisher's distributions of funds to community providers as monitoring endowments to these organizations through federal funds, a function listed in the class concept of the Grants Coordinator 2.

Hazelton rejects the Project Manager series for Fisher because project management consists of a nine-step methodology which, he states, Fisher does not employ in her work. Hazelton also rejects the Human Services Program Administrator 3 because Fisher does not formulate programs within the meaning of the specification.

CONCLUSIONS OF LAW

I take administrative notice of the Project Management ("PM") series (6338), Human Services Program ("HSP") series (6941), and the Grants Coordinator ("GC") series (6316).

It is worth noting that Appellant's counsel did not introduce the latest revised version of the PM series which was combined with the IT project manager series in 2014. However, I use the latest specifications to support my recommendation.

The Series Purpose for PM states in pertinent part:

> The purpose of the project manager occupation is to **manage and/or direct the development and implementation of technical and/or specialized projects** to assist management in planning and controlling the various aspects of assigned project(s). At all three levels of project manager, **incumbents utilize industry standard program methodologies to direct and manage project development** and implementation. (emphasis added)

Project is further defined in the glossary as "temporary". The series cites the Project Management Institute ("PMI") as the source of its definitions. PMI is a private organization which credentials project managers. PMI advertises its credential, *inter alia*, as a way for project managers to showcase their ability to lead project "teams".

(http://www.pmi.org/certification/project-management-professional-pmp.aspx) (June 27, 2015)

Fisher's primary duty is make sure Ohio gets its share of three federal grants earmarked for refugee assistance. This purpose is consistent and unchanging and, hence, programmatic as opposed to project oriented.

Fischer does not lead a specially formed team to administer her grants. There is no testimony suggesting that she uses a formal industry recognized methodology to "manage" her work.

Projects are temporary in nature and usually incidental to the organization's mission or programs. For example, an upgrade to a business information system to track refugees is a project. In contrast, monetary aid to refugees from renewable grants is more programmatic and in line with the public welfare mission of ODJFS.

Fisher testified she has been doing her work for more than 15 years. It is neither incidental nor temporary in the common sense of these terms. Moreover, Fisher does not employ an "industrial methodology" for use during a "project life cycle" to achieve her results.

Instead, Fisher follows pre-existing grant specifications to maintain eligibility and monitor compliance. These activities fit human services programming more so than the notion of project management. I therefore find that the PM series is not appropriate.

Next, I examine the Human Services Program ("HSP") series. I take notice that this series was last revised in 2015. The Human Services Program Manager is not appropriate because it requires supervision duties. Fisher does not supervise. However the first classification within the series, Human Services Consultant, does not require supervision.

The HSP Consultant class concept states in pertinent part:

> The advanced level class works under direction & requires thorough knowledge of human services or related field & program techniques in order to **act as program consultant for assigned number of** projects, **providers** or counties, or assigned region or district, or on statewide basis for particular category of service/issues, or to special planning committee/ council **by performing three or all of following duties**: **provide technical assistance**, **monitor & evaluate through** onsite visits, **telephone contact** &/or printed surveys **for compliance with** state plan, standards, **grant funding** &/or for quality assurance, assist in developing &/or presenting health care promotion or educational activities & materials, &/or assist in assessing & planning or plan & coordinate service delivery. (emphasis added)

In contrast, GC 2 Class Concept states:

> The advanced level class works under direction & requires thorough knowledge of contract & **grant preparation & accounting** in order to **monitor agency participation in grant programs or monitor endowment of funds to qualified participants for adherence to contract/program rules & regulations**. (emphasis added)

Fisher performs all of the bolded duties in each of the last two class concepts. Regarding the HSPC, she provides technical assistance to providers and

monitors their grant funding but does perform two more essential duties in the class concept.

To further explain, she is not engaged in healthcare promotion through training, and though she recruits providers, she does not plan direct service delivery. That is up to the provider. Because she does not perform "3 or all" of the duties in the class concept, the HSPC classification is not appropriate.

This leaves the GC series. The highest level in the series requires supervision and is therefore not appropriate. The GC 2 is the best fit. Testimony establishes that Fisher prepares grant applications to the Federal government. Once ODJFS is selected as a grantee, she monitors ODJFS participation in the three refugee grants. She does this in two ways: (1) through regular financial accounts management; (2) by monitoring the purposes for which funds are used by the providers.

This is, in essence, what Fisher does in conjunction with her supervisor. Therefore, the class concept of GC 2 fits Fisher the best.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the review determination of the Department of Administrative Services to reclassify Appellant's position from the holding class of Management Analyst Supervisor 1 to Grants Coordinator 2, Job Code 63162, pursuant to R.C. 124.03 and R.C. 124.14.

Raymond M. Geis
Administrative Law Judge