

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

Tammy Payton,

Appellant,

v.

Case Nos. 2015-REC-10-0190
2015-MIS-10-0191

Department of Mental Health and Addiction Services,
and
Department of Administrative Services,

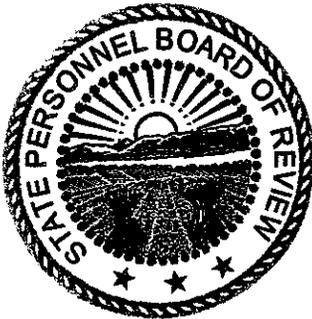
Appellees,

ORDER

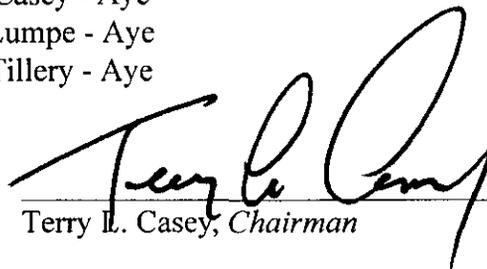
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 Appellant's position be **RECLASSIFIED** as Senior Financial Analyst, classification number 66563, pursuant to O.R.C. Sections 124.03 and 124.14



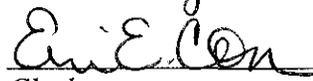
Casey - Aye
Lumpe - Aye
Tillery - Aye


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, May 31, 2016.


Eric E. Con
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 June 7, 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 Numbers: 2015-REC-10-0190 and 2015-MIS-10-0191

Transcript Costs: \$145.50 Administrative Costs: \$25.00

Total Deposit Required: * \$170.50

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: June 15, 2016

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

Tammy Payton,

Case Nos.: 2015-REC-10-0190
2015-MIS-10-0191

Appellant

v.

March 24, 2016

Ohio Department of Mental Health and Addiction Services,
and

Ohio Department of Administrative Services,

Appellees

Elaine K. Stevenson

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on due to Appellant Tammy Payton's (Appellant) timely filing of a notice of appeal of the results of a job audit finding that her position is properly classified as Administrative Professional 4. The State Personnel Board of Review (Board) has jurisdiction to hear Appellant's appeal pursuant to Ohio Revised Code (O.R.C.) §§ 124.03(A) and 124.14(D).

A record hearing was held on January 26, 2016, during which, testimonial and documentary evidence was presented. Appellant was present at record hearing and appeared *pro se*. Appellee, Ohio Department of Mental Health and Addiction Services (OMHAS), was present through its designee, Michaela Peterson, Deputy Director of the Office of Legal and Regulatory Services. Appellee, Ohio Department of Administrative Services (ODAS), was present through its designee, Amy Shedd, Human Capital Management Senior Analyst. Also present was Appellant's immediate supervisor, Chad Hibbs, Director of Ohio Family and Children First (OFCF).

FINDINGS OF FACT

Based upon a thorough review of the record evidence as a whole and, where relevant, credibility determination of witness' testimony, I make the following Findings of Fact:

1. OFCF is a partnership of state and local government established to promote the well-being of children and families in Ohio by streamlining and coordinating existing government services for families seeking assistance for their children. (O.R.C. § 121.37). At the state level, there is a Cabinet Council (OFCF Cabinet

Council), which is comprised of the following state departments: OMHAS, Job and Family Services, Developmental Disabilities, Aging, Education, Health, Medicaid, Opportunities for Ohioians with Disabilities, Rehabilitation and Correction, Youth Services, and the Office of Budget and Management. At the local level, there are 88 county Family and Children First Councils (FCFCs).

2. OFCF has been administratively under OMHAS since approximately 2005. Each OFCF Cabinet agency contributes funds to maintain and operate the OFCF office, which is currently comprised of four positions: Director, Administrative Professional, and two Regional Coordinators. The Director position was vacant from approximately August 2014 until June 2015. During that time, OMHAS Director Tracy Plouck assumed responsibilities as OFCF Director. In June 2015, Chad Hibbs was appointed OFCF Director. Prior to his appointment to the position of OFCF Director, Mr. Hibbs served as an OFCF Regional Coordinator. Appellant has been employed with OFCF for approximately eleven years. Appellant's position is currently classified as Administrative Professional 4. Appellant reports directly to Mr. Hibbs. The two Regional Coordinator positions are currently vacant. Mr. Hibbs has performed the job functions of the Regional Coordinators and will continue to do so until those positions are filled.
3. Each OFCF Cabinet Council department has assigned executive level staff (e.g., Deputy Directors, Project Directors, and Program Managers) to develop and implement programs, initiatives, and policies that effectuate OFCF's mission.
4. The OFCF Cabinet Council has developed and implemented a number of programs/initiatives, including but not limited to, Family-Centered Services and Supports (FCSS), Operational Capacity Building Funds (OCBF), and Parent Advocacy Connection (PAC). FCSS and OCBF funds generally have the same funding processes and procedures. Each fund has different qualifications. FCSS funds are federal sub-grant funds allocated to families to maintain children and youth with multi-system needs in their own homes through the provision of non-clinical, community-based services and supports. Eligible county FCFCs receive an annual allocation of these funds which are made available on a reimbursement basis. To be eligible, county FCFCs must have an approved service coordination mechanism on file with OFCF and annually complete the FCSS Assurance Statement. OCBF is a grant opportunity through the state General Revenue Fund that is made available to each county to assist in the maintenance and operations of the 88 county FCFCs.
5. The primary function of Appellant's position is to perform all fiscal processes related to the FCSS and OCBF funding streams and the federal grant: "Empowering the New Generation to Achieve their Goals through

Empowerment” (ENGAGE). ENGAGE is a federal planning grant awarded to Ohio to expand the “System of Care” framework utilized by OMHAS to provide mental health and multi-system services to youth and young adults in transition. Appellant devotes approximately twenty-five to thirty percent of her work time performing fiscal and administrative duties for each of the three funding streams. (Findings of Fact 6 through 12). Appellant devotes the remaining ten to twenty-five percent of her work time performing the fiscal and administrative duties described in Findings of Fact 13 and 14.

6. Appellant provides information to the OFCF Director and OFCF Cabinet Council leadership and legal counsel regarding OFCF funding processes. Appellant’s primary duties are to monitor and track expenditures, maintain records, update forms, disseminate OFCF communications regarding funding issues, and facilitate the processing of documentation related to the three funding streams. Appellant coordinates and processes requests for payment from CFCEs to drawdown funds for services. Appellant answers questions related to all fiscal aspects of OFCF. Appellant maintains records in accordance with established agency policies and all relevant federal and state funding requirements.
7. Appellant acts as liaison between the OFCF Director and the OMHAS Fiscal Office and Legal Office. Appellant works with the OMHAS Fiscal Office related to establishing funding processes unique to OFCF.
8. Appellant keeps the OFCF Director apprised of all fiscal processes and deadlines for the FCSS and OCBF funding streams. Appellant updates funding guidance documents and supporting forms to ensure compliance with federal and state funding requirements and OMHAS fiscal policies. Appellant processes the initial application for fund allocation based upon established policies, and federal and state regulations. Appellant reviews initial applications submitted by the FCFCs to ensure that they have completed the form properly and have an approved coordination mechanism on file with OFCF. Appellant assists with the creation of Interagency Sub-grant Agreements. Appellant established a payment processing document for FCSS that outlines the deadlines for requesting reimbursements.
9. Appellant tracks current budget and historical spending to make recommendations to OFCF Director. Appellant updates the yearly FCSS Allocation Chart that records county FCFCs allocation amounts. Appellant serves as contact person between OFCF Director and the county FCFCs by emailing the new fiscal year FCSS guidance document, FCSS Assurance Statements, deadlines, and supporting documents to the FCFCs. Appellant responds to questions regarding funding processes. Appellant established a funding spreadsheet to track allocation amounts and funding requests.

Appellant submits this spreadsheet to OFCF Director for review and approval. Appellant then submits the FCSS funding spreadsheet to OMHAS fiscal and budget staff to set-up allocation amounts in the OMHAS funding system.

10. Appellant assists the ENGAGE Project Director with all fiscal aspects of this grant. Appellant assists in budget preparation and analysis and prepares required annual federal reports. Appellant assists with the contract planning process by preparing personal service contract template documents for OMHAS Request for Proposals. Appellant prepares Controlling Board paperwork. Appellant submits contracts to OMHAS Legal Counsel for review and approval. Appellant provides information requested by Legal Counsel regarding current funding processes and issues related to ENGAGE. Appellant works with vendors to submit invoices. Appellant reviews invoices and forwards invoices to ENGAGE Project Director for final approval.
11. Appellant maintains funding spreadsheet for the ENGAGE Project Director to review. Appellant submits funding requests for processing in the "Turnstile/OMHAS" funding system. Appellant assists the ENGAGE Project Director with the semi-annual funding report, tracks compliance, and sends data to ENGAGE program staff for review. Appellant assists with internal continuing education for the team-based training process: "Wraparound Facilitator Trainings." Appellant assists ENGAGE Project Director with preparing ENGAGE Cooperative Agreements and Communications transmitted to county grantees. Appellant monitors county allocations to ensure compliance with funding guidelines and she provides technical support regarding funding processes and issues.
12. Appellant also provides funding information to grantee National Alliance on Mental Health for the Parents Advocacy Connection (PAC) program. Appellant assisted the OFCF Director and the Director of "Ronald McDonald House of Cleveland" with the Administrative Agreement to obtain funds for the "Red Treehouse" website. Specifically, Appellant coordinated the process and submitted paperwork to OMHAS Legal Counsel to obtain approval for the Administrative Agreement. Appellant generated the Notice of Award in "Turnstile/OMHAS" funding system and sent the notice to the grantee with instructions and funding deadlines. Appellant monitors spending and provides technical assistance regarding PAC.
13. Appellant manages OFCF's website and serves as the contact person with ODAS' Office of Technology. Appellant manages office equipment, orders supplies, and processes invoices for monthly rental fees to the OMHAS Fiscal Office. Appellant has also served on a database building committee.
14. Appellant has authority to sign invoices related to auxiliary functions, such as maintenance and supply orders for the office. Appellant does not sign high level

- contracts, such as Inter-agency Sub-grant Agreements. All contracts generated by Appellant, including personal service contracts and Inter-agency Agreements are reviewed and approved by the appropriate executive level staff member and/or Legal Counsel.
15. From approximately August 2014 to June 2015, Appellant kept OFCF office functions operating with a temporary Director, who relied upon Appellant's extensive knowledge and experience to work independently handling OFCF fiscal matters related to the FCSS and OCBF funding streams. Appellant has assumed *partial* authority of the OFCF Director during the director's absence.
 16. Appellant does not supervise any employees.

CONCLUSIONS OF LAW

Pursuant to O.R.C. § 124.03(A), the Board is empowered to hear appeals of employees in the classified state service from final decisions of appointing authorities or the director of ODAS relative to, *inter alia*, the reclassification of an employee's position, with or without a job audit under O.R.C. § 124.14(D). O.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 primary criteria for the Board to consider when determining the most appropriate classification for a position are the relevant classification specifications, including the class concepts, the job duties outlined, and the percentages of time devoted to each job duty. The Board's decision must be consistent with the applicable classification specifications. *Klug v. Dept. of Admin. Services*, No. 87AP-306, slip op. (Ohio Ct. App. 10th Dist., May 19, 1988). See also *Ohio Dept. of Mental Retardation & Dev. Disability v. Ohio Dept. of Adm. Serv.* (1988), 44 Ohio App.3d 144.

Ohio Administrative Code Rule 123:1-7-15 provides that the class concept shall set forth the mandatory duties that must be satisfied at least twenty per cent of the time, unless otherwise stated in the class concept.

In this case, ODAS conducted a job audit of Appellant's position and determined that her position is properly classified as Administrative Professional 4. Appellant asserts that her position should be classified as Program Administrator 2 or 3. Based upon a review of the testimonial and documentary evidence presented at hearing and the state's job classification plan, the following classification series were considered: **(1)** Program Administrator, **(2)** Grants Coordinator, **(3)** Administrative Professional, and **(4)** Financial Analyst.

The series purpose of the Program Administrator occupation is to provide program direction by relieving superior of administrative duties. At the first level, incumbents are required to relieve a superior of non-routine administrative duties *and* formulate and implement program policy. At the second level, incumbents are required to relieve a superior of a variety of difficult administrative duties *and* formulate and implement program policy. At the third level, incumbents are required to relieve a superior of the most difficult administrative duties *and* formulate and implement program policy.

The term "program" is not defined in the classification specifications or in relevant case law. Since this principal term is not defined within the Program Administrator class series, the Board may apply the plain and ordinary meaning of the word to determine whether the employee in question performs job duties commensurate with any of this series' classification specifications. See *Franklin County Dept. of Human Services v. Foster, et al.* (March 25, 1996), Franklin Co., No. 94CVF12-9168, unreported. A "program" may be defined as a plan or system under which action may be taken toward a goal. ("Program" Def. 3. *Merriam Webster Online*, Merriam Webster, n.d. Web. 12 Aug. 2014.) Upon review of the evidence and the pertinent sections of the Ohio Revised Code and Ohio Administrative Code, I find that OFCF's activities constitute programs.

Appellant's job duties correspond to a number of the illustrative job duties described in both the Program Administrator 1 and 2 classification specifications, such as responding to programmatic funding issues, providing information and guidance regarding filing forms and documents, compiling data for reports, and preparing and monitoring budgets. However, Appellant does not formulate and implement program policy as required by each class concept in the Program Administrator classification series. At hearing, Appellant acknowledged that she does not formulate program policy and OFCF Director Chad Hibbs confirmed that Appellant's responsibilities are limited to the fiscal aspects of OFCF's programs. Therefore, while it is clear that Appellant's position is a key factor in the success of OFCF's programs, the Program Administrator classification series does not provide an accurate description of her position.

The next classification series considered was Administrative Professional. Appellant's position is classified at the highest level in this series, Administrative Professional 4. The series purpose of the Administrative Professional occupation is to perform a variety of clerical, procedural, and administrative tasks as principal clerical and administrative support position for supervisor and/or office staff. At the highest level in this classification series, incumbents are required to perform non-routine tasks and provide secretarial support for the office, "([I].e., independently formulate decisions &/or judgments involving non-legal interpretation of policies & procedures as they would apply to given situation to resolve problems, to prepare correspondence &/or reports or to carry out other assignments)."

Report and Recommendation

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Appellant's job duties fulfill the class concept of the Administrative Professional 4 classification and Appellant performs a number of the illustrative duties set forth in this classification specification, such as reviewing and preparing operational reports, maintaining confidential files and records, and independently formulating decisions that involve non-legal interpretation of agency fiscal procedures to carry out assignments. Appellant is the principal administrative support for OFCF's office. Appellant testified that she makes independent decisions regarding the majority of fiscal issues that arise, produces reports, and ensures that documents are properly completed and timely filed. Director Hibbs testified that Appellant's responsibilities are focused on the fiscal processes involving the FCSS and OCBF funding streams, and he noted that he relies upon the administrative support Appellant provides regarding all aspects of the fiscal processes related to these funding streams.

The next classification series considered was Grants Coordinator. The purpose of the Grants Coordinator occupation is to monitor agency participation in and utilization of grant funding programs. The Grants Coordinator 1 classification requires incumbents to prepare and process grant applications. The Grants Coordinator 2 classification requires incumbents to coordinate and monitor agency participation in grant programs or coordinate and monitor agency endowment program. The Grants Administrator classification requires incumbents to administer grants programs and supervise grants coordinators and/or clerical staff in grants processing and compliance activities.

Appellant's job duties fulfill the class concepts of the Grants Coordinator 1 and 2 classifications and Appellant performs certain illustrative duties contained in these classifications. Specifically, Appellant performs all fiscal processes related to the FCSS and OCBF funding streams and the federal planning grant "ENGAGE." Appellant also provides fiscal and administrative assistance to grantee National Alliance on Mental Health for the PAC program. The Grants Coordinator 1 and 2 classifications describe Appellant's job duties.

The final classification series considered was Financial Analyst. The purpose of the Financial Analyst occupation is to prepare, process, and/or analyze accounting records, financial statements, and/or other financial reports and data. The Financial Analyst classification series contains an entry level, full performance level, advanced level, and two supervisory levels. The classification level within this series that best describes Appellant's job duties is the advanced level of Senior Financial Analyst. The class concept for the Senior Financial Analyst classification states:

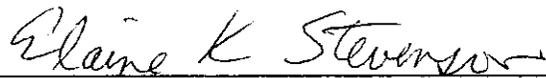
The advanced level class works under direction & requires thorough knowledge of accounting systems & procedures in order to independently or as a lead worker (i.e. provide work direction & training) research & analyze complex information to resolve errors, modify data &/or determine appropriate action with

external involvement, **&/or administer the fiscal aspect of grant(s)**. [Emphasis added.]

The testimonial and documentary evidence establishes that Appellant devotes approximately ninety percent of her work time administering the fiscal aspect of grants, as described by the Senior Financial Analyst classification specification. Specifically, Appellant collaborates with program office to assemble, review, and analyze documents for grant and sub-grant applications. Appellant establishes fiscal monitoring of approved grant funds to ensure quality assurance throughout all processes by reviewing available funds in compliance with state and federal procedures. Appellant prepares, updates, and reviews grant reports. Appellant coordinates cash drawdowns with internal/external entities. Appellant performs other related accounting duties, such as assisting with budget forecasts and trend analysis and training agency staff regarding fiscal processes.

Although the classifications of Administrative Professional 4 and Grants Coordinators 1 and 2 describe Appellant's job duties to some extent, it is the Senior Financial Analyst classification that provides the most accurate description of the scope and nature of Appellant's job duties. For that reason, Appellant's position should be classified as Senior Financial Analyst. See *Smathers v. Barklage*, Court of Appeals, Tenth District, Franklin County, February 14, 1978, WL 77AP-669, unreported (where job classifications and job duties overlap and the employee's job duties possibly fit into two or more classifications, the employee's position should be placed in the job classification that most nearly matches the employee's actual job duties).

Therefore, I respectfully **RECOMMEND** that Appellant's position be **RECLASSIFIED** as Senior Financial Analyst, classification number 66563, pursuant to O.R.C. §§ 124.03 and 124.14.



Elaine K. Stevenson
Administrative Law Judge