

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

JOYCE A. HACKETT,

Appellant

v.

Case No. 05-REC-01-0004

DEPARTMENT OF NATURAL RESOURCES
and
DEPARTMENT OF ADMINISTRATIVE SERVICES,

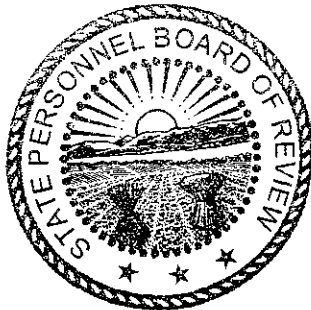
Appellees

ORDER

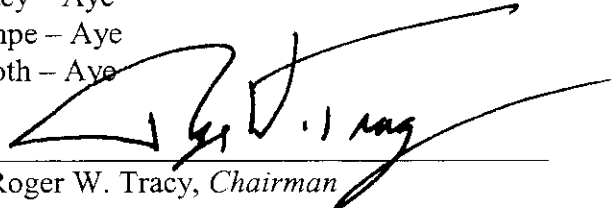
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to this 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 determination of the Department of Administrative Services be **AFFIRMED** and Appellant's position be **RETAINED** in the Fiscal Officer 1 classification, pursuant to O.R.C. 124.03 and 124.14.



Tracy – Aye
Lumpe – Aye
Booth – Aye



Roger W. Tracy, *Chairman*

CERTIFICATION

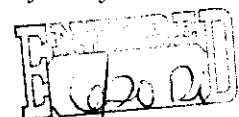
The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that the foregoing is (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, June 20, 2006.



Clerk

NOTE: Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.



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

Joyce A. Hackett,

Case No. 05-REC-01-0004

Appellant

v.

April 7, 2006

Department of Natural Resources

and

Department of Administrative Services,

Jeannette E. Gunn

Appellees

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on due to Appellant's timely appeal of the results of an audit conducted on her position. The audit ultimately resulted in a finding that the proper classification for Appellant's position was Fiscal Officer 1, classification number 66535.

A record hearing was held in the instant appeal on September 1, 2005. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Natural Resources was present at record hearing through its designee, Human Resources Administrator Linda Sutherland; Appellee Department of Administrative Services (DAS) was represented by Human Resources Analyst Bobbi Lind.

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

STATEMENT OF THE CASE

Appellant testified that she is presently employed by Appellee Ohio Department of Natural Resources (ODNR), as Section Manager for the Fiscal Administration Section of the Office of Coastal Management (OCM). She indicated that her position is classified as Fiscal Officer 1 and stated that she has held that

position since July 2002. Appellant confirmed that her immediate supervisor is David Mackey, who serves as Chief of the Office of Coastal Management and holds the classification Deputy Director 4.

Appellant acknowledged that she requested a position audit in October 2004, which resulted in a finding by Appellee Department of Administrative Services (DAS) that her position was correctly classified as Fiscal Officer 1. She noted that she completed a questionnaire regarding her job responsibilities as part of the audit process, and confirmed that the information she provided therein regarding her duties and the percentages of time associated with each of those duties was substantially accurate at the time she completed the questionnaire. Appellant observed that her responsibilities have changed since that time, with slightly less time being devoted to Human Resources duties, and approximately seventy-five percent of her working time devoted to fiscal responsibilities.

Appellant indicated that her primary responsibility is to serve as OCM's Fiscal Administration Section Manager, Human Resources Manager and Contract Administrator. She noted that the Fiscal Administration Section provides support services for the other two sections in the Office, Submerged Land Leases and Shore Structure Permits, which each have their own section manager.

Appellant confirmed that she supervises two Administrative Assistants and one Office Assistant 1. She indicated that she plans and manages the fiscal, accounting, budgetary and business functions of the OCM. Appellant stated that she oversees the Coastal Program's fiscal management, including the functions of purchasing, accounts receivable/payable, inventory, direct billing, vehicle activities, personal service contracts and controlling board requests.

Appellant indicated that she works with Mr. Mackey to prepare the office budget, and makes recommendations regarding allotments and appropriations for his approval. She noted that if she needs to purchase something over \$1,000, she check with Mr. Mackey prior to doing so. Appellant stated that she covers meetings for Mr. Mackey and has signatory authority for some things in his absence.

Appellant stated that she is responsible for overseeing the management of state and federal grant monies and for payroll. She noted that she assumed the responsibility for grants-related issues from a previous employee. Appellant explained that each year the Office of Coastal Management receives a two million

dollar grant from the National Oceanic and Atmospheric Administration (NOAA), and stated that there are currently five open grants in the office. She observed that there are multiple tasks associated with the administering of each grant and testified that she is responsible for tracking and managing deliverables, compliance and expenses for the grants. Appellant indicated that she prepares semi-annual reports for all of the projects that are open and for each grant.

Appellant testified that she has been responsible for reviewing existing policies regarding overtime, flex time and other operational issues and tailoring them to the needs of the Office of Coastal Management. She confirmed that she does not have responsibility for formulating regulatory policies.

David Mackey testified that he is presently employed by ODNR as Chief of its Office of Coastal Management, and that his position is classified as Deputy Director 4. He indicated that he has held that position since July 2002. Mr. Mackey explained that the Office is made up of five sections, and two employees who provide him with direct administrative support. The witness stated that all of the section heads report directly to him, which includes the heads of the GIS/Mapping section, the Coastal Engineering section, the Coastal Network & Enforcement section, the Communications section and the Fiscal Administration section.

Mr. Mackey noted that the Office of Coastal Engineering receives funds from several sources, including federal grant money from the National Oceanic & Atmospheric Association, funds generated by submerged land leases and mining fees, and miscellaneous grants funds.

Mr. Mackey noted that the Fiscal Administration section handles much of the administrative support for the office. He testified that the Fiscal section provides grants management services related to the Office's NOAA grants and indicated that Appellant and one of the employees she supervises have responsibility for tracking and preparing two major yearly reports which document fiscal activity and controls, as well as programmatic achievements, tied to NOAA funds.

The witness noted that the Office has grown rapidly, with approximately twenty-five employees hired over the last three years. Mr. Mackey indicated that Appellant has been intimately involved in the hiring process, helping draft position descriptions and performing the majority of the associated human resources functions. He confirmed that Appellant has worked on the development and

implementation of human resources and operational policies, but not regulatory policies.

Bobbi Lind testified that she is presently employed by Appellee DAS as a Human Resources Analyst in its Office of Classification and Compensation, and stated that she has held that position for approximately three years. Ms. Lind confirmed that she was the individual who conducted Appellant's position audit and explained that she based her recommendation that the position remain classified as a Fiscal Officer 1 on the class concept section of the classification specification.

The witness recalled that she also examined the Personnel Officer classification series, the Business Administrator classification series and the Administrative Assistant classification series, but determined that because Appellant's primary job purpose was fiscal in nature, the Fiscal Officer series was the most proper for the position.

Ms. Lind noted that the Office of Coastal Management is specifically referenced in the Fiscal Officer 1 class concept section as an example of the setting in which the classification would be found. She indicated that the next level of the series requires an incumbent to perform duties on behalf of a division, which is a different level of organization within ODNR. The witness agreed with the explanation that ODNR divisions are established through specific legislation, while offices are not, and that offices within ODNR typically provide support for the agency Director.

FINDINGS OF FACT

Based upon the testimony offered and evidence admitted at record hearing, I make the following findings of fact:

Appellant is employed by Appellee ODNR, as Section Manager for the Fiscal Administration Section of the OCM. Her position is presently classified as Fiscal Officer 1. Appellant's immediate supervisor is David Mackey, OCM Chief.

Appellant requested a position audit in October 2004, which resulted in a finding by Appellee DAS that her position was correctly classified as Fiscal Officer 1. As part of the audit process, she provided DAS with accurate information regarding her job duties and the percentages of time associated with each of those duties.

Since that time, Appellant's job responsibilities have changed slightly, with less time being devoted to Human Resources duties, and approximately seventy-five percent of her working time now devoted to fiscal responsibilities.

The primary responsibility of Appellant's position is to serve as OCM's Fiscal Administration Section Manager, Human Resources Manager and Contract Administrator. The Fiscal Administration Section provides support services for the other two sections in the OCM, Submerged Land Leases and Shore Structure Permits, which each have their own section manager.

Appellant supervises two Administrative Assistants and one Office Assistant 1. She plans and manages the fiscal, accounting, budgetary and business functions of the OCM. Appellant oversees the Coastal Program's fiscal management, including the functions of purchasing, accounts receivable/payable, inventory, direct billing, vehicle activities, personal service contracts and controlling board requests.

Appellant works with Mr. Mackey to prepare the office budget, and makes recommendations regarding allotments and appropriations for his approval. Mr. Mackey's approval is required for purchases greater than \$1,000. Appellant covers meetings for Mr. Mackey and has signatory authority for some things in his absence.

Appellant is responsible for overseeing the management of state and federal grant monies and for payroll. There are presently five open grants in the office. Multiple tasks are associated with the administering of each grant and Appellant is responsible for tracking and managing deliverables, compliance and expenses for the grants and for preparing semi-annual reports for all of the open projects and for each grant.

Due to the OCM's rapid growth over the past three years, Appellant has been very involved in the hiring process by helping draft position descriptions and performing the majority of the associated human resources functions. Appellant worked on the development and implementation of human resources and operational policies, reviewed existing policies regarding overtime, flex time and other operational issues and tailored them to the needs of the OCM, but did not develop regulatory policies. Appellant's human resources job duties have lessened since her position audit was conducted, with less time being devoted to Human

Resources duties, and approximately seventy-five percent of her working time devoted to fiscal responsibilities.

CONCLUSIONS OF LAW

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).

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 considered by this Board were Administrative Assistant, class series 6312; Business Administrator, class series 6331; and Fiscal Officer, class series 6653.

The purpose of the Administrative Assistant class series is to assist in program direction by relieving superior of administrative duties and assisting in program direction. At the higher levels, incumbents formulate and implement program policy. Testimony and evidence at record hearing showed that, while Appellant has had some responsibility with regard to developing and implementing human resources and operational policies, she does not have responsibility for formulating or implementing program policies. Accordingly, I find that the Administrative Assistant series is not descriptive of Appellant's job duties and her position may not be appropriately placed therein.

The purpose of the Business Administrator class series is to plan, direct and/or coordinate all fiscal and support services operations for division, school, agency or institution assigned. This classification is reserved for use by departments that operate institutions, schools with residential facilities, rehabilitation centers with residential facilities, clubhouse or other residential facilities with 24-hour services, or positions in agencies having responsibility for both fiscal operations and support services. Use by ODNR is restricted to the Division of Parks and Recreation only. I find that the Business Administrator series does not reflect the duties performed by Appellant and her position may not be appropriately placed therein.

The purpose of the Fiscal Officer class series, in the higher levels, is to supervise personnel assigned to carry out fiscal functions and either act as chief fiscal officer or assistant director of finance or administrative operations, with the level being dependent on size and type of agency. Appellant's position is presently placed in the Fiscal Officer classification series.


The class concepts for the Fiscal Officer 1, 2 and 3 classifications contain specific statements of applicability to employees of ODNR. The class concept for the Fiscal Officer 3 classification provides that an incumbent must plan and manage a combination of fiscal, accounting and budgetary functions in one division that is multi-funded and has more than 300 employees, and must supervise assigned staff. The class concept for the Fiscal Officer 2 classification states that an incumbent who is not employed in the Division of Parks & Recreation must plan and manage a combination of fiscal, accounting and budgetary functions for one division that is multi-funded and/or has fewer than 300 employees, and must supervise assigned staff. The class concept for the Fiscal Officer 1 classification indicates that an incumbent must plan and manage a combination of fiscal, accounting and

budgetary functions in one office, and must supervise assigned staff. The example given in the class concept for the term "office" is the Office of Coastal Management. As noted above, the class concept contains the mandatory duties that must be performed by an incumbent for at least twenty percent of her or her work time.

The parties at hand do not dispute that Appellant's primary job responsibilities are to plan and manage a combination of fiscal, accounting and budgetary functions within the OCM. The class concepts for the various levels of Fiscal Officer, however, are differentiated by the agency level at which an incumbent employee performs his or her duties. ODNR divisions are established through specific legislation; OCM is considered to be an office, rather than a division, as that term is used within the classification specifications. Accordingly, I find that Appellant's position may not be classified as either a Fiscal Officer 2 or Fiscal Officer 3 because she does not perform her duties on behalf of a division of ODNR.

While the Fiscal Officer 1 classification specification does not address the additional Human Resources duties performed by Appellant for approximately twenty-five percent of her time, I nevertheless find that it is the most appropriate classification for her position. The majority of Appellant's job duties, and the primary responsibilities of her position are fiscal in nature, therefore, it is my conclusion that the Fiscal Officer series is the most descriptive of Appellant's position. Because Appellant performs those job duties on behalf of an office, specifically OCM, I find that Fiscal Officer 1 is the most appropriate classification for her position.

Therefore, I respectfully **RECOMMEND** that the determination of Appellee DAS be **AFFIRMED** and Appellant's position be retained in the Fiscal Officer 1 classification.


Jeannette E. Gunn
Administrative Law Judge

JEG: