

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

BARBARA J. ANTHONY,

*Appellant,*

v.

Case No. 05-REC-01-0012

ENVIRONMENTAL PROTECTION AGENCY,  
AND  
DEPARTMENT OF ADMINISTRATIVE SERVICES,

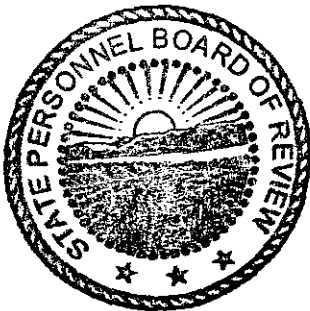
*Appellees.*

**ORDER**

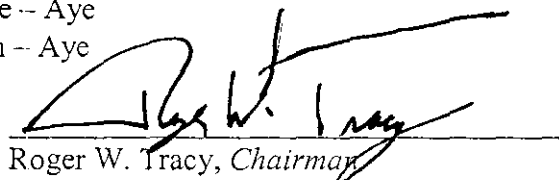
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 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** to Administrative Assistant I, classification number 63121, effective with the first pay period following the date of her audit request, pursuant to O.R.C. §§ 124.03 and 124.14.



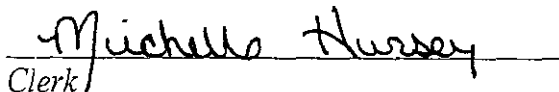
Tracy -- Aye  
Lumpe -- Aye  
Booth -- Aye

  
Roger W. Tracy, *Chairman*

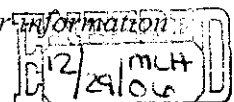
**CERTIFICATION**

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, DECEMBER 29, 2006.

  
Michelle Hursey  
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**

Barbara J. Anthony,

Case No. 05-REC-01-0012

*Appellant*

v.

November 21, 2006

Environmental Protection Agency,

and

Department of Administrative Services,

*Appellee*

Jeannette E. Gunn

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on pursuant to Appellant's timely filing of the results of a position audit. A record hearing in the instant matter was held on March 16, 2006. Appellant was present at the record hearing and appeared *pro se*. Appellee Ohio Environmental Protection Agency was present through its representative Human Resources Manager Karen Haight. Appellee Department of Administrative Services was present through its designee, Human Resources Analyst Karen Benson.

The subject matter jurisdiction of the Board was established pursuant to section 124.03 and 124.14 of the Ohio Revised Code.

**STATEMENT OF THE CASE**

Appellant testified that she is presently employed by Appellee Ohio Environmental Protection Agency (EPA) in the Central District Office as an Administrative Assistant 2. She indicated that her immediate supervisor is District Administrator Millicent Sims, who is directly supervised by the Central District Office Chief, Craig Butler.

Appellant recalled that she requested an audit of her position in November 2004, because she believed that her position should be classified as an

Administrative Assistant 3. She noted that the position audit resulted in a determination that her position was properly classified as an Administrative Assistant 2.

Appellant confirmed that she completed an audit questionnaire as part of the audit process and identified a copy of that questionnaire. She stated that she completed the job duties section of the questionnaire, and consulted with her supervisor and division manager in doing so. Appellant indicated that the information regarding her job duties and the percentage of time she performed those duties was fairly accurate at the time she completed the questionnaire. She noted that at the time she completed the questionnaire, she was performing the duties outlined as the main purpose of her position for approximately fifty to sixty percent of her working time.

Appellant explained that the main purpose of her position is to process Permit to Install (PTI) and Permit to Operate (PTO) applications, renewals and relocation notices and estimated that she performs duties related to this purpose approximately forty-five to fifty-five percent of her work time. She testified that since the time of the audit she has also assumed similar responsibilities related to the Permit by Rule (PBR) program. Appellant noted that she is responsible for contacting facilities for additional information pertaining to permit applications, and also researches and responds to complaints from the community. She explained that after reviewing the applications for completeness and correctness, she passes the applications on to the technicians for their evaluation. Appellant stated that she is also responsible for entering permit information into a tracking database that she created.

Appellant noted that she serves as a liaison between the Department of Air Pollution Control (DAPC) manager and the technical staff and passes information and directives along to them. She indicated that she oversees purchase orders and fiscal matters for DAPC, although she does not have final authority over fiscal or other purchasing decisions.

Appellant testified that she devotes approximately twenty-five percent of her working time to the supervision of clerical staff; she confirmed that she directly supervises two clerical staff employees and supervises the staff of the Customer Service Unit in their supervisor's absence. Appellant stated that she makes recommendations for hiring, schedules work time and develops performance goals

for the employees she supervises. She noted that in the past she has functioned as backup for the Network Administrator, who she supervised prior to January 2006 in the absence of the district administrator. Appellant stated that she provides computer software help for the Central District Office upon request, schedules training for DAPC and administrators. She indicated that the majority of her interaction with DAPC was with the division contained within the Central District Office.

Appellant estimated that she spends fifteen percent of her time compiling special projects and reports for the federal Environmental Protection Agency. She indicated that she researches, gathers and enters information for managers of the four to five divisions she deals with, and enters that information into a database.

Appellant testified that she writes policies and procedures for the clerical staff she supervises, and also regarding the permit process. She noted, for example, that she has prepared procedures to facilitate the flow of permits through the review process.

Millicent Sims testified that she is employed by Appellee EPA as District Administrator of Appellee's Central District Office and noted that her position is classified as an Administrative Assistant 4. She confirmed that she is Appellant's immediate supervisor and is familiar with her day to day job duties. The witness stated that the testimony offered by Appellant was a fair representation of her job duties and that she believed the percentages of time Appellant assigned to those job duties to be accurate.

Ms. Sims observed that she oversees the administrative functions of the District Office, but has no responsibility for technical job duties. She noted that she deals with payroll benefits, employee leave, security, building maintenance, public information, purchasing, supply ordering and inventory. The witness testified that Appellant acts on her behalf by responding to staff needs in the areas of building maintenance and security. Ms. Sims indicated that Appellant represents her at meetings and when she is out of the office.

The witness stated that the CDO technical staff perform very specific job duties, and one of the things DAPC does is to receive permit applications and evaluate whether or not the permit should be granted. She explained that Appellant performs administrative work to support DAPC's technical duties by reviewing

permit applications for completeness and performing data entry tasks related to the applications.

Ms. Sims noted that Appellant also supervises the word processing staff that prepare checklists and reports and maintain files for the various divisions in the District. She indicated that Appellant is responsible for developing policies and procedures for the word processing standard procedures manual, and for permit tracking.

The witness testified that she is responsible for oversight of Appellant's administrative responsibilities, but that DAPC Manager Isaac Robinson III, reviews Appellant's permit-related duties.

Karen Benson testified that she is employed by Appellee Department of Administrative Services (DAS) in the Classification and Compensation Unit of its Human Resources Division. Ms. Benson confirmed that she performed the audit of Appellant's position and recalled that she recommended that Appellant's position remained classified as an Administrative Assistant 2.

The witness stated that she based her recommendation on her review of the written materials submitted by Appellant and her supervisor, and noted that she reviewed several different classification specifications as part of the audit.

### **FINDINGS OF FACT**

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

Appellant is presently employed by Appellee Ohio Environmental Protection Agency (EPA) in the Central District Office as an Administrative Assistant 2. Her immediate supervisor is District Administrator Millicent Sims, who is directly supervised by the Central District Office Chief, Craig Butler. Ms. Sims is responsible for oversight of Appellant's administrative job duties; Appellant's permit-related job responsibilities are supervised by DAPC Manager Isaac Robinson III.

Appellant requested an audit of her position in November 2004. The audit resulted in a determination that Appellant's position was properly classified as an Administrative Assistant 2.

Appellant completed a questionnaire as part of the audit process in which she outlined her job responsibilities. The information she provided regarding her job duties and the percentages of time she performed those duties was fairly accurate at the time she completed the questionnaire.

The main purpose of Appellant's position is to process Permit to Install (PTI) and Permit to Operate (PTO) applications, renewals and relocation notices. Since the date she requested her position audit, Appellant has also assumed similar responsibilities for the Permit by Rule (PBR) program. Appellant performs permit-related duties approximately forty-five to fifty-five percent of her work time. She reviews incoming permit applications for completeness and correctness and, when necessary, contacts facilities for additional information pertaining to the applications. After reviewing the applications, Appellant passes them on to DAPC technicians for action. Appellant also enters permit information into a tracking database that she created. In addition, Appellant researches and responds to questions and complaints from the community.

Appellant serves as a liaison between the Department of Air Pollution Control (DAPC) manager and the technical staff. She oversees purchase orders and fiscal matters for DAPC, although she does not have final authority over fiscal or other purchasing decisions.

Approximately twenty-five percent of Appellant's work time is devoted to supervising clerical staff employees who provide support for the entire District Office. She directly supervises two clerical staff employees and supervises the staff of the Customer Service Unit in their supervisor's absence. Appellant makes recommendations for hiring, schedules work time and develops performance goals for the employees she supervises. Appellant provides computer software help for the Central District Office upon request, and schedules training for DAPC and administrators.

Fifteen percent of Appellant's work time is spent compiling information and special projects and reports for the federal Environmental Protection Agency. She

researches and gathers information for managers of the four to five divisions she deals with, and enters that information into a database.

Appellant writes policies and procedures for the clerical staff she supervises, and for permit tracking. She acts on behalf of Ms. Sims by responding to staff needs in the areas of building maintenance and security; Appellant represents Ms. Sims at meetings and when she is out of the office.

### **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.

\* \* \* \* \*

In beginning an analysis of Appellant's job duties, I note that her position is somewhat unique. Although Appellant devotes a large percentage of her work time to processing permit applications for the DAPC and states that this non-technical function constitutes the primary purpose of her position, the most complex duties she performs are those administrative functions she performs under the supervision of Ms. Sims, including her supervision of clerical staff.

The classification specifications considered by this Board were Administrative Assistant 1, classification number 63121; Administrative Assistant 2, classification number 63122; and Administrative Assistant 3, classification number 63123.

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. The four classification specifications included in the series are similar in nature, with the distinction between them made on the basis of the types of duties performed on behalf of the employee's superior.

The class concept of the Administrative Assistant 1 classification specification provides that an incumbent must:

... assist in program direction by relieving superior of routine administrative duties & make recommendations & assist in developing new procedures & programs.

An examination of the illustrative job duties contained in the body of the classification specification indicates that routine administrative duties include responsibilities such as research and analysis, providing technical information and advice, recommending and helping develop new procedures and programs, serving as a liaison between administrator and subordinates, transmitting decisions and directives, representing the administrator at meetings and conferences and assuming responsibility and authority in the administrator's absence. Appellant performs these tasks on behalf of her supervisor, Ms. Sims, to provide general support to the programs of the divisions encompassed by the Central District Office. The classification specification for Administrative Assistant 1 does not, however, reference all of the duties performed by Appellant. Therefore, this Board must

examine additional classification specifications to determine if another more accurately represents her responsibilities.

The class concept of the Administrative Assistant 2 classification specification provides that an incumbent must:


... assist in program direction by relieving superior of non-routine administrative duties & formulate & implement program policy, or to do all of preceding & supervise assigned staff.

The Administrative Assistant 2 classification specification not only incorporates the job duties set forth in the Administrative Assistant 1 classification specification, but also adds non-routine administrative duties to the responsibilities of an incumbent. The illustrative job duties contained in the body of the classification specification indicate that the non-routine administrative duties referenced in the class concept include acting independently on behalf of the employee's superior to answer complex or confidential correspondence, conduct staff meetings regarding rules and operating procedures, monitoring staffing requirements. Additional responsibilities of the Administrative Assistant 2 classification specification are the formulation and implementation of program policy. An Administrative Assistant 2 may also have supervisory responsibilities.

Appellant does perform administrative duties that require her to work independently on behalf of Ms. Sims, as well as Mr. Robinson. I find that the administrative tasks she performs are sufficient to meet the definition of non-routine utilized in the Administrative Assistant 2 class concept. Appellant and her supervisor testified at record hearing that she develops and implements policies and procedures related to office and administrative procedures, and policies and procedures for tracking permit applications. Upon examination, it is my conclusion that the policies and procedures formulated by Appellant do not constitute program policy, as required by the Administrative Assistant 2 class concept. Although the processing of permit applications is one of the DAPC's program functions, tracking of those applications is an administrative duty and policies and procedures related to that task do not rise to the level of "program policy." Therefore, I find that Appellant does not perform the mandatory job duties contained in the class concept of the Administrative Assistant 2 classification specification, and her position cannot be properly classified as such.

Because Appellant does not meet the requirements of the Administrative Assistant 2 classification, this Board need not proceed to examine the Administrative Assistant 3 classification specification, which also requires that an incumbent formulate and implement program policy.

Accordingly, based upon the above analysis, I find that the classification specification which most accurately describes the job duties performed by Appellant is Administrative Assistant 1, classification number 63121. This represents a downgrade from Appellant's current classification of Administrative Assistant 2. Therefore, it is my **RECOMMENDATION** that Appellant's position be **RECLASSIFIED** to Administrative Assistant 1, effective with the first pay period following the date of her audit request.

  
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Jeannette E. Gunn  
Administrative Law Judge

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