

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

CYNTHIA L. KENNEDY,

Appellant,

v.

Case No. 06-REC-02-0038

DEPARTMENT OF PUBLIC SAFETY,
AND
DEPARTMENT OF ADMINISTRATIVE SERVICES,

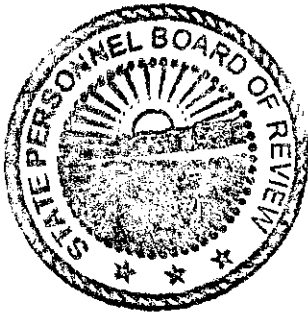
Appellees.

ORDER

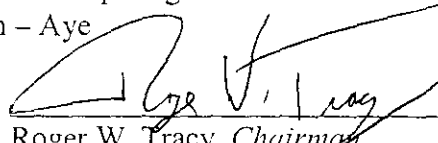
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 Appellee, Ohio Department of Administrative Services' determination that Appellant's position is most properly classified as Personnel Officer 2, classification number 64622, be **AFFIRMED**, pursuant to O.R.C. 124.14.



Tracy – Aye
Lumpe – Not Participating
Booth – Aye

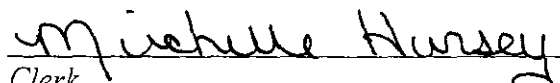


Roger W. Tracy, *Chairman*

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, MARCH 2, 2007.



Clerk

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

3/2/07 

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

Cynthia L. Kennedy,

Case No. 06-REC-02-0038

Appellant

v.

January 11, 2007

Ohio Department of Public Safety

and

Ohio Department of Administrative Services,

Appellees

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on July 17, 2006, at approximately 1:45 p.m. Present at the hearing were the Appellant, Cynthia L. Kennedy, appearing *pro se*, and the Appellees, the Ohio Department of Administrative Services designee, Karen Benson, a Human Resource Analyst, and the Ohio Department of Public Safety's designee, Rich Nagel, an Assistant Administrator of Human Resources.

On December 7, 2005, the Appellant, Cynthia L. Kennedy, requested a job audit of her position as a Personnel Officer 2, classification specification number 64622. Subsequently, on or about February 2, 2006, the Appellant received the results of her audit request which notified her that her proper classification was that of a Personnel Officer 2's position, classification specification number 64622. After receiving the Ohio Department of Administrative Services' decision, the Appellant timely filed her appeal to this Board on or about February 17, 2006. It should be noted that the aforementioned was stipulated to as well as the subject matter jurisdiction of this Board was established prior to going onto the record.

Before proceeding onto the full record hearing, the Appellant stated that although she is presently classified as a Personnel Officer 2, she is seeking to be reclassified to the position of a Management Analyst Supervisor 1, classification specification number 63215.

STATEMENT OF THE CASE

The Appellant, Cynthia Kennedy, testified she is presently employed as a Personnel Officer 2 and has been so for the past eighteen years, but has held positions within the Ohio Department of Public Safety for the last twenty-nine years. Ms. Kennedy explained that she presently works in the Shipley Building located at 1970 W. Broad Street and that her direct supervisor is Staff Lieutenant Brian Landis. When questioned, the witness explained that Staff Lieutenant Brian Landis has been her direct supervisor for approximately the last seven years and he is in charge of the benefits unit, in which she works. Within the benefits unit, she testified there is one other Personnel Officer 2, a Personnel Officer 1 and a Management Analyst Supervisor 1, and herself as the Personnel Officer 2 along with Staff Lieutenant Landis who comprise the benefits unit itself. When asked what the mission of the unit is, Ms. Kennedy responded by stating to ensure the proper processing of any and all BWC claims, disability claims, occupational injury leave matters, health claims, dental claims, vision claims and unemployment compensation and to ensure that it is done efficiently. When questioned, Ms. Kennedy testified she is a full-time employee working forty-hours Monday through Friday from 7:30 a.m. to 4:15 p.m.

Next Ms. Kennedy testified she does not provide supervision in her position as a Personnel Officer 2, however, she does provide and direct the work of others within the agency. Further, the witness testified she does also perform some training and will act on the behalf of her supervisor, Staff Lieutenant Brian Landis in his absence. Ms. Kenney's attention was then draw to Joint Exhibit 1, the job audit packet, in looking under the job audit report on the third page, which lists her percentages of her job duties. The witness, when questioned, testified approximately fifty percent of her time she works under the direction of Highway Patrol Staff Lieutenant while serving as the agency manager regarding employee benefit matters, formulates policy and directs implementation of policy related to contracts, while serving on behalf of the staff lieutenant as the agency contact. Further, the witness also explained she assumes the responsibility and authority of the Staff Lieutenant in his absence in this regard. Under the thirty percent heading, Ms. Kennedy explained she also monitors the work and provides technical assistance in the area of personnel administration regarding contract interpretation, agency work rules, the Ohio Revised Code, the Ohio Administrative Code, the Family Medical Leave Act and the like. The witness then testified she also provides

training to supervisors and employees in matters related to contract administration and benefits. Moreover, Ms. Kennedy testified she would also maintain contact with field districts and employees of Ohio Department of Public Safety and guide them in the directions in the area of benefits as needed with health, dental, vision, BWC claims, occupational leave, disability, life insurance, early intervention of work programs and its initiatives, as needed. The witness explained due to her seniority, she also is the lead worker for the work unit benefits office and oversees work and provides training of lower level staff members and/or the Personnel Officer 1. Under the heading of the ten percent portion of her job tasks, Ms. Kennedy testified she prepares monthly, quarterly and annual reports of unit activity and makes recommendations on any changes, if needed. Lastly, the last ten percent of her job duties were attending meetings, communicates with other departments and divisions and prepares correspondence on the same. The witness testified that she would also attend conferences, meetings and represent the department, when requested to do so by her superiors. Ms. Kennedy explained she would also give oral presentations to the new cadet classes at the Ohio State Highway Patrol Academy and would assist them in their promotions to their new positions and handling any benefits information. The witness testified she had also handled sensitive inquiries from higher-level management and the general public and prepared reports in this regard, as well. Ms. Kennedy was then questioned about the position description portion of the job audit report and attested that virtually everything that the Human Resource Analyst wrote down in regards to the job audit report is correct and that her duties have not changed since the time of the report.

Next, the witness was then questioned about the Management Analyst series of classification specifications contained within the job audit packet. Ms. Kennedy identified the Management Analyst Supervisor 1's position, classification specification number 63215. In reviewing the document and upon questioning of the job duties in order of importance Ms. Kennedy testified that she did not supervise any unit or team of Management Analysts in the evaluation of any financial and/or programmatic impact of specified operations. Further, the witness testified she does not provide any fiscal analysis of any information and provide that to her supervisor, as well. (Please note that the Management Analyst Supervisor 1 that is under the direct report of Brian Landis is only a Management Analyst, not an MAS1). Additionally, Ms. Kennedy testified she does not provide any research or analysis of the existing programs. However, the witness did testify that she does prepare reports, attend meetings in the absence of her supervisor and had

established guidelines for the operations and procedures to monitor the work product.

When reviewing the Administrative Assistant 1's classification specification in the job audit packet, Ms. Kennedy testified she did not aide an Administrator in program direction by researching and providing analysis, although she did state that she passes on information to Staff Lieutenant Brian Landis as her supervisor. Additionally, Ms. Kennedy explained that she did not manage the business functions of an Administrator's Office, nor did she prepare and monitor any budget or prepare payroll under this classification specification, as well.

Under the Personnel Officer 3's classification specification, she was questioned whether she managed and directed the entire personnel program at the Ohio Department of Public Safety, to which she responded she did not. Ms. Kennedy explained she did not serve as an assistant to the Personnel Administrator, as well. However, the witness did testify she would at times act as a Hearing Officer on any disputes, which is something that was under the Personnel Officer 3's duties enumerated under duties of importance of a Personnel Officer 3.

Next, Ms. Kennedy was questioned about the Personnel Officer 2's classification specification and agreed when questioned that she is independently responsible for two or more personnel sub programs in the employment benefits area in her agency. Further, the witness explained she does assist in the monitoring and/or preparing and processing of reports, and does attend hearings as a management representative. Ms. Kennedy testified and agreed she also responds to inquiries from employees and the general public and assists higher-level personnel or other administrative staff when requested to do so.

When questioned, Ms. Kennedy testified the largest percentage of time which she performs in her job is to ensure that the work which is being handled in her area is complete and that she provides good sound technical assistance to any higher ups who inquire as to any issues which may arise. The witness then identified her exhibit noted as Appellant's Exhibit A, and discussed, among other things, her accolades she has received in her years of employment and produced documentation, which evidenced that she worked on various sub programs, which had been previously discussed.

Upon questioning by the Ohio Department of Administrative Services' designee, Ms. Karen Benson, Ms. Kennedy explained she does handle about a third of the FMLA processing throughout the entire agency, as well. Further, the witness explained that the Management Analyst Supervisor 1, who was newly brought on a couple of months after she received the results of her job audit, does take and respond to work direction by herself and she will often direct where her paperwork is supposed to go. With respect to the Personnel Officer 1 working in the unit, the witness explained that individual mostly handles the vision and dental paperwork and that she would give and direct her work, as well in this regard.

The next person to testify was Mr. Brian Landis, and/or Staff Lieutenant Brian Landis, the Benefits Unit Commander. Mr. Landis testified he has held his present position as Benefits Unit Commander for approximately the last eleven years. Further, the witness explained he has been the Appellant's direct supervisor for that period of time, up until April 3, 2006, when Ms. Jennifer Tipton transferred in as a Management Analyst Supervisor 1. The witness explained that Ms. Tipton now is Ms. Kennedy's supervisor, although since she is in training both report presently to him. Furthermore, when questioned, if Ms. Kennedy's testimony regarding her job duties and/or responsibilities were accurate, Mr. Landis answered in the affirmative, as he was in the hearing room and heard the same. However, Mr. Landis did clarify a couple of items that the Appellant had previously discussed. With regards to the Personnel Officer 1 who works in the unit, the witness explained that Ms. Kennedy oversees her and provided her extensive training and provides her work direction often. Furthermore, Mr. Landis explained Ms. Kennedy often attends to matters in his absence.

Upon questioning by the Ohio Department of Administrative Services' designee, Ms. Karen Benson, Mr. Landis testified and/or clarified when Ms. Kennedy acted on his behalf it would be where he specifically gave her the authority to attend various meetings when he was not able to attend. Further, Mr. Landis explained to the extent of Ms. Kennedy's training, consisted of not only just training the individual employees within the benefits unit, but conducting an agency wide training and/or speaking at an agency wide training seminar to help inform all those employees.

The last witness to testify was Ms. Karen Benson, a Human Resource Analyst 3 for the Ohio Department of Administrative Services. When questioned, the witness stated that she has held her present position for approximately the last four

years, but that she has a total of fifteen years of service with the Ohio Department of Administrative Services in the personnel area.

Ms. Benson testified it was her determination that Ms. Kennedy was properly classified as a Personnel Officer 2, classification specification number 64622. The witness explained she reviewed several classification specifications in formulating this rationale as the Appellant did not specifically state what or if any classification she was seeking when she initially filed her job audit request. Ms. Benson testified she reviewed the classification specifications of the Administrative Assistant series, the Personnel Officer series and the Management Analyst Supervisor series. The witness testified that according to her rationale Ms. Kennedy did not formulate or implement program policies, but only office policies that are not covered under this specification of an Administrative Assistant, nor did she relieve a superior of any non-routine administrative duties, but only those duties that were specifically routine in nature. Along this line of reasoning, the Administrative Assistant series and/or those classification specifications were rejected.

Next, Ms. Benson testified she reviewed the Management Analyst Supervisor 1 classification specification and opined that this series was inappropriate since the employee did not supervise a team or unit of Management Analysts responsible for monitoring and specifying operation, a system, service or procedure of an assigned agency or serve as an agency manager. Thus, this classification specification of a Management Analyst Supervisor 1 was rejected, as well. In reviewing the Personnel Officer 3 classification specification, Ms. Benson testified this classification seemed inappropriate since the employee in this case did not manage and direct entire personnel programs for an agency, but only sub-parts to that program and/or supervise lower level personnel staff. Along this line of reasoning, Ms. Benson rejected this as not being the appropriate fit for the Appellant to be placed into.

However, in review of the Personnel Officer 2 classification specification, Ms. Benson testified this seemed to be the most appropriate since the employee was independently responsible for two or more personnel sub-programs, as in this case approximately seven sub-programs and that this seemed to be the most accurate fit for the Appellant to be placed into.

FINDINGS OF FACT

There was no real discrepancy between the Appellant's characterization of the duties that she performed and those of the testimony of her supervisor Staff Lieutenant Brian Landis, the Benefits Unit Commander. Thus, I find that as a matter of fact, the Appellant, Cynthia Kennedy, performed the duties about which she testified.

CONCLUSIONS OF LAW

This Board is required to perform several functions when determining the most appropriate classification for an Appellant coming before it. The Board must always review relevant classification specifications to determine which classification best describes the Appellant's actual job duties for the pertinent period of time. *Ford v. Ohio Department of Natural Resources* (1990), 67 Ohio App. 3d 755. In making this determination, the Board considers the classification specification and the job duties outlined therein, as well as the percentages of time the Appellant devotes to each group of job duties. *Klug v. Department of Administrative Services* (May 19, 1988), Franklin County 87AP-306, unreported, 1988 WL54277. This Board's consideration is not solely limited to the duties contained within the classification specification, but may also embrace other relevant facts by the affected parties. *Gordon v. Ohio Department of Administrative Services* (March 31, 1988), Franklin County 86-AP0122, unreported, 1988WL37094.

As a general rule, the Appellant seeking reclassification to a higher position must demonstrate that his or her respective duties substantially satisfy those of the higher classification. *Mounts v. Ohio Department of Administrative Services* (1984), 17 Ohio App. 3d 125; *Deist v. Kent State University* (May 23, 1987), Franklin County 87AP-28, unreported.

As was previously stated, the Appellant, Cynthia Kennedy, is currently classified as a Personnel Officer 2, but is seeking to be reclassified to a Management Analyst Supervisor 1 position. However, as was noted by the undersigned, the Ohio Department of Administrative Services found that the Appellant, Cynthia Kennedy, was properly classified as a Personnel Officer 2, as that was their finding on the audit of her position. Further, it should be noted that

the Appellant in requesting a job audit did not specifically put down any classification that she wanted to be classified to but had mentioned that the outset of this hearing the classification of a Management Analyst Supervisor 1 position. Moreover, as was noted by the Ohio Department of Administrative Services' designee, Ms. Karen Benson, the positions of a Personnel Officer 3, a Personnel Officer 2, a Management Analyst Supervisor 1's position, and an Administrative Assistant 1 classification specification were reviewed in coming to a determination in Ms. Kennedy's audit request. After a thorough review of the above-mentioned classification, it is my recommendation that the Appellant was properly classified as a Personnel Officer 2.

When reviewing the Administrative Assistant series, the evidence revealed that Ms. Kennedy did not formulate or implement program policies, but only office policies that are not covered under this specification of an Administrative Assistant, nor did she relieve a superior of any non-routine administrative duties, but only those duties that were specifically routine. Along this line of reasoning, the Administrative Assistant series and/or those classification specifications were rejected by the undersigned.

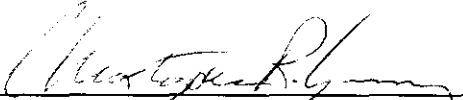
When reviewing the Management Analyst Supervisor 1 classification specification the evidence revealed that this was inappropriate since the employee did not supervise a team or unit of Management Analysts responsible for monitoring and specifying operation, a system, service or procedure of an assigned agency or serve as an agency manager. Thus, this classification specification of a Management Analyst Supervisor 1 was rejected.

In reviewing the Personnel Officer 3 classification specification, the evidence indicated that this classification seemed inappropriate since the employee in this case did not manage and direct entire personnel programs for an agency, but only sub-parts to that program and/or that she did not supervise lower level personnel staff. Along this line of reasoning, the undersigned rejected this as not being the appropriate fit for the Appellant to be placed into.

Further, in reviewing the Personnel Officer 2 classification specification, the documentary and testimonial evidence revealed that this seemed to be the most appropriate since the employee was independently responsible for two or more personnel sub-programs, as in this case approximately seven sub-programs and that this seemed to be the most accurate fit for the Appellant to be placed into.

RECOMMENDATION

Therefore, after careful consideration of the evidence presented at the record hearing, and by a preponderance thereof, the classification specification of a Personnel Officer 2 best describes the duties which the Appellant performs in her job. Therefore, it is my **RECOMMENDATION** that the Appellant, Cynthia Kennedy, remain in the classification of a Personnel Officer 2, classification specification number 64622. Thus, it is my further recommendation that the Appellant's appeal be **DISMISSED** pursuant to Ohio Revised Code Section 124.14.


Christopher R. Young
Administrative Law Judge

CRY:dIm