

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

Jerome T. Ferguson Sr,

*Appellant,*

v.

Case No. 06-REC-03-0054

Department of Public Safety Bureau of Motor Vehicles,  
and  
Department of Administrative Services,

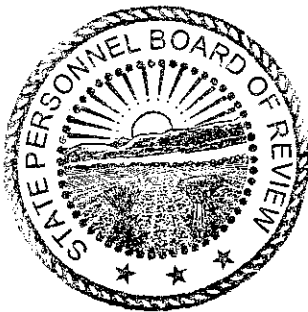
*Appellees.*

**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 be reclassified from Administrative Officer 1, classification number 63131, to Administrative Assistant 3, classification number 63123, be **MODIFIED** and that Appellant's position be **RECLASSIFIED** as Administrative Assistant 1, classification number 63121, effective January 17, 2006, pursuant to O.R.C. §§ 124.03 and 124.14.



Lumpe – Aye  
Booth – Aye  
Tracy – Aye

J. Richard Lumpe, *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 26, 2007, 2007.

Clerk

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

6/26/07

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

Jerome T. Ferguson, Sr.,

Case No. 06-REC-03-0054

*Appellant*

v.

November 17, 2006

Ohio Department of Public Safety, Bureau of Motor Vehicles  
and  
Ohio Department of Administrative Services,

*Appellees*

Elaine K. Stevenson  
*Hearing Officer*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on for consideration due to Appellant's timely filing of an appeal of the results of an audit conducted on his position. A record hearing in this matter was held on August 1, 2006. Appellant was present at the record hearing and appeared *pro se*. Appellee Ohio Department of Public Safety was present through its designee, Richard W. Nagel, Assistant Human Resources Administrator. Appellee Ohio Department of Administrative Services was present through its designee, Karen Benson, Human Resource Analyst 3.

The jurisdiction of the State Personnel Board of Review over the subject matter of this proceeding was established pursuant to sections 124.03 and 124.14 of the Ohio Revised Code.

**STATEMENT OF THE CASE**

On December 14, 2005, Appellant filed a request for an audit of his position. At that time, Appellant's position was classified as Administrative Officer 1, classification number 63131, and his working title was Assistant Chief. Appellee the Ohio Department of Administrative Services (ODAS) determined that Appellant's position was most properly classified as Administrative Assistant 3, classification number 63123. On February 6, 2006, ODAS issued a letter notifying Appellant of the results of the job audit conducted on his position. On March 6, 2006, Appellant filed his appeal of those results with this Board.

Appellant testified that he has been employed by Appellee the Ohio Department of Public Safety, Bureau of Motor Vehicles (ODPS/BMV) since 1993. From December 14, 2005 to January 17, 2006, Appellant was the Assistant Chief under the direct supervision of Duke Hobson, who was the Section Chief of the Deputy Registrar Administrative Services Section (DRASS). As Assistant Chief, Appellant's primary job duties were to directly supervise four management employees and to oversee the statewide daily operations of DRASS, including the Audits and Consignments Unit, the Deputy Technical Services Unit, the Application Verification Unit, and the Application Filming and Retrieval Unit. Appellant indirectly supervised fifty-two bargaining unit employees located at ODPS' Shipley Building and its Alum Creek Facility. Appellant noted that the Application Verification Unit and the Application Filming and Retrieval Unit were phased out. Appellant indicated that he oversaw phase-out operations, and he recalled that he supervised approximately twenty intermittent employees during this process. Appellant noted that as the phase-out progressed, the number of intermittent employees he supervised decreased.

Appellant testified that, on January 17, 2006, he was reassigned to BMV/Central Operations' Research Section, and he indicated that his immediate supervisor is Russell Rauch, whose position is classified as Administrative Assistant 4. Appellant noted that his job duties changed upon his reassignment to the Research Section, specifically, he was no longer an assistant chief and he no longer had any supervisory duties. Appellant stated that his job duties include preparing one weekly report, gathering bid information submitted in response to BMV's annual Request for Proposals (RFP) for the selection and appointment of deputy registrars, and answering the telephone. Appellant indicated that he files the bids, information packets, and the scoring information, and he noted that these bids are approved by the Registrar and the Director. Appellant stated that he also gathers information on current policies and procedures as requested by BMV's legal department, assists in gathering information for the BMV newsletter, and assists with special projects as directed by the Section Chief. Appellant noted that he was assigned the task of conducting an internal agency survey regarding the federal "Real ID Act." Appellant confirmed that he has no supervisory duties. Appellant recalled that he received a new position description, dated January 31, 2006.

Duke E. Hobson testified that he has been employed by ODPS since 1993. Mr. Hobson indicated that he was Appellant's immediate supervisor prior to Appellant's reassignment to BMV/Central Operations. Mr. Hobson stated that Appellant accurately described his job responsibilities as Assistant Chief of DRASS. Mr. Hobson confirmed that Appellant was responsible for overseeing the operations at the Alum Creek Facility, which housed the Application Verification Unit and the Application Filming and Retrieval Unit. He explained that the units located at the Alum Creek Facility were phased-out due to BMV's conversion to an automated system. Mr. Hobson confirmed that Appellant oversaw the phase-out of operations at the Alum Creek Facility.

Upon questioning from Appellant, Mr. Hobson confirmed that, prior to Appellant's January 17, 2006 reassignment, his position within DRASS was the only position classified as Administrative Officer 1.

Karen Benson testified that she has been employed by ODAS for approximately twenty years, and she indicated that her position is currently classified as Human Resource Analyst 3. Mr. Benson stated that she conducted the audit of Appellant's position. Ms. Benson indicated that she reviewed the information contained in Appellant's position audit questionnaire and based upon that information she considered three classifications, specifically, Management Analyst Supervisor 1, Administrative Officer 1, and Administrative Assistant 3. Ms. Benson stated that after reviewing the class concepts of those three classifications, she determined that the Administrative Assistant 3 classification was the most appropriate for Appellant's position because Appellant performed a variety of difficult administrative duties for his supervisor, whose position was classified as Administrative Assistant 4.

### **FINDINGS OF FACT**

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

1. The time period relevant to this proceeding begins December 14, 2005, the date Appellant filed his request for a job audit, and extends to August 1, 2006, the date of record hearing. At the time Appellant filed his request for a job audit, his position was classified as Administrative Officer 1 and his working title was Assistant Chief.
2. ODAS determined that Appellant's position was most appropriately classified as Administrative Assistant 3. That determination resulted in a lateral classification change for Appellant's position. After receiving ODAS' audit determination, Appellant timely filed an appeal with this Board.
3. From December 14, 2005 to January 17, 2006, Appellant's position was assigned to BMV/DRASS. Appellant's primary job duties were to directly supervise four management employees and oversee the daily operations of DRASS, including the Audits and Consignments Unit, the Deputy Technical Services Unit, the Application Verification Unit, and the Application Filming and Retrieval Unit. Appellant indirectly supervised fifty-two bargaining unit employees located at ODPS' Shipley Building and its Alum Creek Facility, which housed the Application Verification Unit and the Application Filming and Retrieval Unit. Appellant also oversaw the phase-out operations at the Alum Creek Facility, and he supervised approximately twenty intermittent employees during this process.

4. At the conclusion of the Alum Creek Facility phase-out, Appellant was reassigned to BMV/Central Operations' Research and Development Section, effective January 17, 2006. Appellant's immediate supervisor is Section Chief Russell Rauch, whose position is classified as Administrative Assistant 4. Appellant's job duties include preparing one weekly report, gathering and filing bid information submitted in response to BMV's annual RFP for the selection and appointment of deputy registrars to operate license agencies, and responding to telephone inquiries. Appellant also gathers information on current policies and procedures as requested by BMV's legal department, assists in gathering information for the BMV newsletter, and assists with special projects as directed by the Section Chief. The policy component of Appellant's position is limited to gathering specific information at the request of the Section Chief and the legal department. Appellant is not an assistant chief and he has no supervisory responsibilities.
5. Appellee submitted a position description for Appellant's position, dated January 31, 2006. The duties contained in that position description generally reflect the duties Appellant performed as Assistant Chief of DRASS during the time period of December 14, 2005 to January 17, 2006. The job duties contained in the January 31, 2006 position description do not accurately reflect the job duties performed by Appellant after his reassignment to BMV/Central Operations' Research and Development Section.

### **CONCLUSIONS OF LAW**

Pursuant to O.R.C. 124.03(A), this Board is empowered to hear appeals of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to, *inter alia*, refusal of the director of administrative services, or anybody authorized to perform the director's functions, to reclassify 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 reclassification of an employee's position to such appropriate classification as the facts and evidence warrant. The Board's decision must be consistent with the applicable classification specifications, pursuant to O.R.C. 124.03(A).

Pursuant to O.A.C. 123:1-7-15, an employee must perform the mandatory duties as set forth in the class concept for at least twenty percent of his or her work time in order to be placed in that classification, unless otherwise provided in the pertinent classification specification.

Although Appellant has several appeals pending with this Board, it should be noted that the sole issue presented by this appeal is whether Appellant's position is properly classified as Administrative Assistant 3. The time period relevant to this proceeding begins December 14, 2005, the date Appellant filed his request for a job audit, and extends to August 1, 2006, the date of record hearing. The classification series considered were Management Analyst, class series number 6321; Administrative Officer, class series number 6313; and Administrative Assistant, class series number 6312.

The testimony presented and evidence admitted established that prior to the job audit conducted by ODAS, Appellant's position was classified as Administrative Officer 1. Appellant's working title was Assistant Chief. During the time period relevant to this proceeding, Appellant was assigned to BMV's Deputy Registrar Administrative Services Section (BMV/DRASS), and then reassigned to BMV/Central Operations' Research and Development Section, effective January 17, 2006. As Assistant Chief at DRASS, Appellant's primary job duties were to directly supervise four management employees and to oversee the daily operations of DRASS, including the Audits and Consignments Unit, Deputy Technical Services Unit, the Application Verification Unit, and the Application Filing and Retrieval Unit. Appellant indirectly supervised fifty-two bargaining unit employees located at ODPS' Shipley Building and its Alum Creek Facility. As Assistant Chief, Appellant also oversaw phase-out operations of the units located at the Alum Creek Facility. Upon conclusion of the phase-out of those operations, Appellant was reassigned to BMV/Central Operations' Research and Development Section under the direct supervision of Chief Russell Rauch.

With respect to Appellant's position within BMV/Central Operations, the testimony established that Appellant's job duties include preparing one weekly report, gathering and filing bid information submitted in response to BMV's annual RFP for the selection and appointment of deputy registrars to operate license agencies, and answering the telephone. Appellant also gathers information on current policies and procedures as requested by BMV's legal department, assists in gathering information for the BMV newsletter, and assists with special projects as directed by the Section Chief.

The first classification series considered was Management Analyst. The purpose of the Management Analyst occupation is to ensure optimum productivity, efficiency and quality of agency operations and/or services. At the lower level, incumbents analyze existing operations, systems, and procedures for deficiencies and/or determine financial and programmatic impact and feasibility of proposed programs. At the higher levels, incumbents supervise a unit or team of management analysts or supervise lower-level management analyst supervisors, or serve as agency manager formulating policy and directing implementation of policy. As stated previously, Appellant was the Assistant Chief

at BMV/DRASS until his reassignment to BMV/Central Operations on January 17, 2006. As the Assistant Chief, Appellant's primary job functions were to directly supervise four management employees and to oversee the daily operations of BMV/DRASS, including the operations at the Shipley Building and the Alum Creek Facility. There was no evidence presented that Appellant's primary job responsibility was to analyze existing operations, systems, and procedures for deficiencies. There was no evidence presented that Appellant supervised management analysts or lower-level management supervisors, or that he served as agency manager formulating policy and directing implementation of policy. A review of the job duties assigned to Appellant upon his reassignment to BMV/Central Operations' Research and Development Section indicates that Appellant does not perform operations or systems analysis and he does not have any supervisory responsibilities. Accordingly, I find that the Management Analyst classification series is not appropriate for Appellant's position.

The next classification series considered was Administrative Officer. The purpose of the Administrative Officer occupation is to plan, direct, and coordinate activities within assigned area. At the first level, incumbents organize and coordinate all program activities of non-technical section or division of state agency and supervise staff; or plan, direct, and coordinate all functions of unit providing all support services in non-institutional setting and supervise assigned staff; or plan, direct, and coordinate all security operations, spanning three shifts, in non-institutional setting and supervise security supervisors or duty officers; or plan and administer all activities of one work unit comprised of three or more technical and/or paraprofessional and/or professional employees carrying out different functions. At the second level, incumbents analyze and develop policies and procedures and coordinate all activities of major division, section, or department of state agency and supervise staff, including policy and procedure development, and fiscal and budget activities. At the third level, incumbents plan, coordinate, and direct activities of multiple major sections or division with each section headed by subordinate supervisory personnel and having different functions.


Although the information contained in the record indicates that Appellant may have performed job duties commensurate with the Administrative Officer 1 classification in January 2002, by the time Appellant filed his request for a job audit in December 2005 his job duties had changed substantially. In considering the time period covering the Alum Creek Facility phase-out, which was in progress at the time Appellant filed his request for a job audit on December 14, 2005, to the date of his reassignment on January 17, 2006, I find that Appellant's responsibilities with respect to the phase-out operations are most accurately described by the Administrative Officer 1 classification specification, specifically, Appellant coordinated the activities of DRASS, including the phase-out operations at the Alum Creek Facility, and he supervised assigned staff. Although the functions of the work units under Appellant's direction at the time of the phase-out do not precisely match the

function combinations described in the Administrative Officer 1 classification specification, this classification specification most closely matches Appellant's job responsibilities during the time period of December 14, 2005 to January 17, 2006. With respect to the job duties performed by Appellant upon his reassignment to BMV/Central Operations, it is important to note that Appellant does not oversee the activities of any work units, he does not coordinate or direct activities of major sections or divisions, and he has no supervisory responsibilities. Therefore, since the Administrative Officer classification series and the class concept options contained therein require incumbents to coordinate the activities of an assigned area and supervise assigned staff, Appellant's position within BMV/Central Operations' Research and Development Section may not properly be classified as Administrative Officer.

The final classification series considered was Administrative Assistant. The purpose of the Administrative Assistant occupation is to assist in program direction by relieving a superior of administrative duties and assisting in program direction. At all but the first level, incumbents are also required to formulate and implement program policy and/or supervise staff. ODAS reclassified Appellant's position from Administrative Officer 1 to Administrative Assistant 3, which resulted in a lateral classification change for Appellant's position. Since Appellant's reassignment to BMV/Central Operations' Research and Development Section, Chief Rauch has assigned Appellant specific tasks. Appellant is responsible for preparing one weekly report, gathering information related to BMV activities and policies as requested by the Section Chief and the legal department, gathering and filing bid information submitted pursuant to the annual RFP for the selection and appointment of deputy registrars throughout the state, responding to telephone inquiries, and working on special projects, including compiling survey information concerning the federal "Real ID Act." There was no testimony or evidence to establish that Appellant determines policies regarding the selection and appointment of deputy registrars or that Appellant is responsible for developing BMV program policies; therefore, the policy component of Appellant's position is limited to gathering specific information at the request of the Section Chief and the legal department. I find that such responsibilities do not constitute formulating program policy as contemplated by the upper three levels of the Administrative Assistant classification series. However, the scope and nature of Appellant's job duties are consistent with the Administrative Assistant 1 classification, which requires that an incumbent assist in program direction by relieving superior of routine administrative duties. In Appellant's case, those routine administrative duties include gathering a variety of information at the direction of the Section Chief and responding to telephone inquiries. Appellant also performs many of the illustrative duties contained in the Administrative Assistant 1 classification specification, including furnishing information, working on special projects, and preparing reports.

Accordingly, I find that the job duties performed by Appellant since his reassignment are best described by the Administrative Assistant 1 classification. Although such a finding indicates a downgrade for Appellant's position, which is presently classified as Administrative Assistant 3, the facts and evidence presented warrant the reclassification of Appellant's position to Administrative Assistant 1, effective January 17, 2006, the date of Appellant's reassignment.

Therefore, I respectfully **RECOMMEND** that Appellee Ohio Department of Administrative Services' determination that Appellant's position be reclassified from Administrative Officer 1, classification number 63131, to Administrative Assistant 3, classification number 63123, be **MODIFIED** and that Appellant's position be **RECLASSIFIED** as Administrative Assistant 1, classification number 63121, effective January 17, 2006, pursuant to O.R.C. 124.03 and 124.14.

  
Elaine K. Stevenson  
Hearing Officer

:EKS