

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

Cheryl R. Massek,

Appellant.

v.

Case No. 09-REC-10-0438

Youngstown State University,

Appellee.

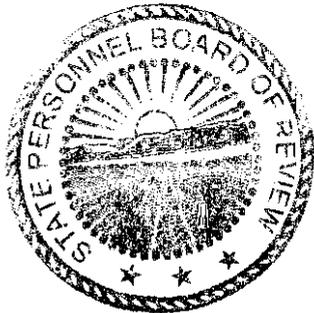
ORDER

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 3, classification number 63123, pursuant to O.R.C. §§ 124.03 and 124.14.

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



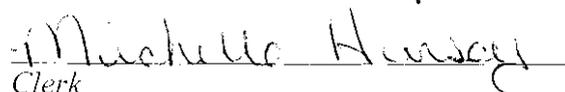


J. Richard Lumpe, *Chairman*

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 this document and any attachment thereto constitute (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, July 29, 2010.



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**

CHERYL R. MASSEK,

Case No. 09-REC-10-0438

Appellant

v.

June 24, 2010

YOUNGSTOWN STATE UNIVERSITY,

Appellee.

JAMES R. SPRAGUE
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This case came to be heard on June 8, 2010. Present at the hearing was Appellant, who was represented by Stanley J. Okusewsky, III, Attorney at Law. Appellee, Youngstown State University (YSU), was present through its designee, Carol Trube, YSU's Manager for Classification and Compensation. Also present from YSU were Dr. Phillip Ginnetti, Dean of YSU's Beeghly College of Education (the College), and Martin Bramlett, YSU's former Interim Chief Human Resources Officer. Appellee was represented at hearing by Rema Ina, Assistant Attorney General for the State of Ohio.

This case comes on due to an appeal timely filed by Appellant on October 5, 2009. That appeal was from a job audit determination received on September 25, 2009. Appellant's position was classified as an Administrative Assistant 2 prior to the audit; after the audit, Appellant's position remained classified as an Administrative Assistant 2. Appellant believes her position is more properly classified as an Administrative Assistant 4.

Jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

At the hearing, four witnesses testified: **Cheryl Massek, Appellant**, whose current classification is Administrative Assistant 2; **Philip Ginnetti**, YSU's current Dean of the Beeghly College of Education; **Carol Trube**, YSU's Manager for Classification and Compensation, who is the employee who initially recommended Administrative Assistant 4 and later recommended Administrative

Assistant 3; and **Martin Bramlett**, former Interim Chief Human Resources Officer, who made the decision that Appellant was properly classified as an Administrative Assistant 2.

First to testify was **Cheryl Massek, Appellant**. Ms. Massek testified that she currently oversees 13 individuals, 12 of whom are part-time student assistants and one of whom is a Youngstown Early College secretary, a civil service Secretary 2 position. The students have various responsibilities both in her office and in the advising office. She is responsible for all fingerprints in the college, works with all departmental budgets, reviews policies, and oversees all computer lab issues.

Appellant offered that her duties break down as follows: 40 percent of her time is spent working on budgets for all of the College's Departments and dealing with problems that arise out of the budgets. She works with budgets on a daily basis, including 12 budgets that she manages and eight more that she oversees. Another forty to fifty percent of her time is dedicated to managing the office on a daily basis, including addressing students, visitors and problems coming into the office. She asserts that she is the buffer between Dean Ginnetti and those wishing to speak with him and deals with related issues daily. She spends the remaining 10 to 20 percent of her time managing initiatives that have fallen to her, including the alumni dinner, editing the alumni magazine, acting on behalf of the Dean in responding to issues and needs of the office, administering the electronic fingerprinting program, organizing several components of the NCATE national education college accreditation process, and running the *emeriti* luncheon. Also included in this remaining time are duties associated with the WebCheck program and work with committees and student workers.

Ms. Massek went on to state that she has been given an increasing amount of authority and discretion within the College by taking responsibilities that had previously been the Dean's. She also offered that she has authored policies and procedures for computer labs and for course fees. As an elaboration on the forty percent of her time spent managing the office, she explained that she deals with a lot of the paperwork of the College; by determining what documents are needed and who is responsible for that paperwork. She controls who can see the Dean and manages his calendar, she averred.

Appellant also claimed that a significant portion of her time is spent researching technology to be purchased by the College. This is in order to anticipate the technology that students will be using in their respective classrooms when they begin teaching in the field.

She writes grants when appropriate for new technology and coordinates for consultants to visit to demonstrate new technology. She has developed policies regarding technology in the College and chairs the technology committee for the

College, which meets a few times a year. Along the same line, she indicated, she is responsible for coordinating everyone at YSU with the WebCheck software, which is responsible for electronic fingerprinting and background checks.

Even though she regularly works with all Department Chairs and Associate Deans, she does not evaluate their work or their programs and does not conduct staff meetings, except during budget discussions. She speaks for the Dean regarding specific policies if presented with an inquiry, but otherwise Ms. Massek does not represent the Dean. She does not recommend changes in employment status of faculty members, review applications of degree candidates or student teachers, or work with the curriculum in any way. She has never been named Acting Dean in the Dean's absence.

Second to testify was **Philip Ginnetti**, Dean of the Beeghly College of Education at YSU and Appellant's immediate supervisor. Dean Ginnetti testified that Ms. Massek is responsible for the distribution of information relating to NCATE as it comes into the office, which is a long process (involving a seven-year review cycle). He also stated he has asked Ms. Massek to take on increasing responsibilities as he has become more involved outside the University at the state and national level. For example, she represents him on the *alumni* selection committee to educate the committee on the criteria, the procedure, and the background information necessary for the committee to make their selections. She also represented him in communications with the state education University Deans' group when he chaired the group.

He opined that some of Appellant's duties and responsibilities should be characterized as most difficult. This is because Ms. Massek is the first person in the College who receives correspondence from those outside the College and because Ms. Massek acts as the gatekeeper for the Dean, he stated.

Dean Ginnetti also explained that he consults Appellant on several decisions because of the knowledge she has on specific topics. Specifically, he regularly consults Appellant about technology issues because he considers her an expert in the field. In addition to her decision-making duties, Dr. Ginnetti asserted, Ms. Massek formulates and administers policies on behalf of the College. Appellant creates for him a calendar of deadlines and what needs to be done to meet those deadlines, so that he does not need to think about it when he completes them. Her role with the budget, he offered, is very important; she monitors all expenditures of the budget. He claimed that Appellant performs several of his job duties when he is unable to do so, but he has never named her Acting Dean in his absence.

Next to testify was **Carol Trube**, YSU's Manager for Classification and Compensation. Ms. Trube was the individual *who originally recommended*

Administrative Assistant 4 for Ms. Massek's position and then later recommended that she be classified as an Administrative Assistant 3. Ms. Trube based this recommendation on the fact that Appellant is responsible for the entire College's computer labs and computers and has written policies for them.

She also believed Ms. Massek's responsibilities for budget management for the entire College to be an indicator of responsibility greater than that of an Administrative Assistant 2. Ms. Trube specifically noted that Ms. Massek formulates the budgets and the Dean merely signs off on them without review. Additionally, she conducts presentations and training for the WebCheck program, duties that are not a part of the Administrative Assistant 2 specification.

Ms. Trube also explained that the *alumni* magazine Ms. Massek assembles is a type of news release, requiring her to take a more independent and difficult role than an Administrative Assistant 2 would. However, Ms. Trube stated that after she reviewed the position again, she decided an Administrative Assistant 4 would not be the proper classification because its specification includes the term "full responsibility," which Ms. Trube does not believe Appellant ever has for any of the Dean's duties.

The description to which Ms. Trube referred states "assumes full responsibility and authority in administrator's absence" and the term "full" is what she believes distinguishes the Administrative Assistant 4 classification from the Administrative Assistant 3 one. Ms. Trube opined that while no YSU Administrative Assistants, even those in the 4 classification, take the role of the administrator, she still believed that Appellant did not perform "most difficult" administrative duties, as required for such a classification.

She explained that since the time of the audit, she has become more experienced in distinguishing "non-routine" and "routine" and "difficult" and "most difficult". Thus, she offered, she can now better analyze the classification in which Appellant belongs, which she believes is an Administrative Assistant 3.

Last to testify was **Martin Barmlett**, former interim Chief Human Resources Officer at YSU, *who made the final determination that Ms. Massek's position was properly classified as an Administrative Assistant 2.* He said that he determined this by looking both at the questionnaire Appellant completed and Ms. Trube's notes. He did not interview anyone in making the decision, but reviewed all the documents Ms. Trube had used in her decision-making process.

He said he compared Ms. Massek's duties as detailed in Ms. Trube's report and recommendation with the illustrative duties in the class specifications and determined that while Appellant has a variety of responsibilities, none of them rises to the level of Administrative Assistant 3 or 4. He testified that in the time he

was at YSU, as contracted out from Clemons Nelson, he disagreed with Ms. Trube's decisions and recommendations approximately ten percent of the time.

Based on the testimony presented and evidence admitted at hearing, I make the following Findings:

First, I note that I incorporate, herein, any finding set forth, above, whether express or implied.

Next, I find that Appellant spends most of her time on budgetary and office management issues at the Beeghly College of Education at YSU. This includes managing all Beeghly College budgets, saving the College money where possible, and dealing with student and visitor issues when they arise. Next, Appellant was involved in one policy initiative – the computer lab policies. The remainder of Appellant's time is spent working on various events and projects, as well as addressing technology issues for the College.

CONCLUSIONS OF LAW

This case presents this Board with the question of whether Appellant's position with Youngstown State University should remain classified as an Administrative Assistant 2 or should be upgraded to either an Administrative Assistant 3 or Administrative Assistant 4? Based on the findings set forth, above, and for the reasons set forth, below, this Board should find that Appellant's position should be reclassified as Administrative Assistant 3.

The following duties are included in the Administrative Assistant 4 class specification and are not performed by Appellant: acting for administrator; conducting staff meetings; reviewing proposals of division heads and other staff members; assuming full responsibility in the absence of the administrator; planning, directing, and appraising the work of the administrator's office staff; formulating program policy; analyzing and evaluating programs; coordinating and monitoring personnel services of the administrative unit; and orienting and counseling new professional personnel.

Evidence presented at hearing demonstrates that Appellant only was responsible for formulating one policy – the computer lab policy. This stems from her responsibility for the computer lab itself, rather than a regular duty of implementing policies. In addition, this policy is specific only to computer labs and not to the overall mission of the College itself.

Given that Appellant's area of authority is confined to the computer lab and to the oversight of budgetary issues, one should not conclude that she enjoys the level of administrative authority usually understood under the Administrative Assistant 4 classification. In addition, Appellant's promulgation of policies has not

risen to the requisite level of frequency to show that this function is one of Appellant's regularly performed job duties. Additionally, while she does in take some action that benefits the Dean, only on very limited occasions does she assume responsibilities that would otherwise be his; she certainly does not assume full responsibility of his duties on most tasks. Taken together, then, Appellant functions in a highly valued but more support role than is intended in the class specification of the Administrative Assistant 4.

However, Appellant does perform the following duties that are included in the Administrative Assistant 3 class specification: responds to programmatic issues; leads task forces; serves as liaison between administrator and subordinates; represents administrator at some meetings; assumes responsibility and authority (albeit not full authority) in administrator's absence; supervises assigned staff; prepares news releases; manages business function of administrator's office; prepares and administers budgets; establishes and oversees maintenance of fiscal controls; and prepares important documents, correspondence, directives and publications. Particularly since these responsibilities fit under the Administrative Assistant 3 class, but not under the Administrative Assistant 4 class, Appellant's role appears to most closely match the specification of the Administrative Assistant 3.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the Comprehensive Position Questionnaire determination of Youngstown State University and **RECLASSIFY** Appellant's position to Administrative Assistant 3, pursuant to R.C. 124.03 and R.C. 124.14.


JAMES R. SPRAGUE
Administrative Law Judge

JRS: