

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Bridgette Blevins,

Appellant,

v.

Case No. 10-REC-02-0040

Bureau of Workers Compensation and
Department of Administrative Services,

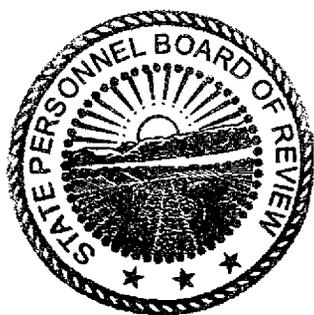
Appellees.

ORDER

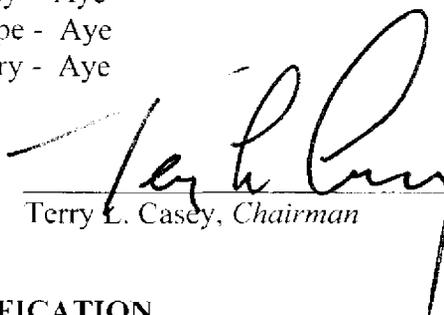
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 2, effective with the first pay period following the date of her audit request, pursuant to O.R.C. § 124.03 and 124.14.



Casey - Aye
Lumpe - Aye
Tillery - Aye


Terry L. Casey, *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, April 13 2011.


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**

Bridgette Blevins,

Case No. 10-REC-02-0040

Appellant

v.

March 15, 2011

Bureau of Workers Compensation,

and

Department of Administrative Services,

Appellees

Jeannette E. Gunn

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

A record hearing in the instant matter was held on June 1, 2010. Appellant was present at the record hearing and appeared *pro se*. Appellee Bureau of Workers Compensation (BWC) was present through its designee, Human Capital Management Analyst Stacie Hart, and was represented by BWC Attorney Ellen Wentzel. Appellee Ohio Department of Administrative Services (DAS) was present through its representative, Human Capital Management Analyst Bobbi Lind.

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 in the Department of Personnel and Benefits. She indicated that she has held her position for approximately twelve years and is classified as an Executive Secretary 2. Appellant confirmed that she filed a position audit request in November 2009; she noted that the audit determined that the proper classification for her position was Public Information Supervisor, but that she believes the classification of Administrative Assistant 3 more accurately describes the duties she performs

Appellant confirmed that she completed a position audit questionnaire as part of the audit process and stated that the information she provided regarding her job duties and the amount of time she performed those duties was substantially accurate both at the time she completed the questionnaire and as of the date of record hearing. She testified that she believes the most important task she performs is relieving her supervisor of complex duties by dealing with issues and questions that arise on a daily basis. Appellant noted that she also supervises Customer Service Assistants and is responsible for updating policies and procedures.

Appellant indicated that she coordinates the Drug Free Workplace program at BWC, which is a statewide program administered by the Department of Administrative Services, and schedules drug testing appointments for job applicants. She stated that she contacts resource staff at DAS to answer any questions she has about the program or its policies, and confirmed that Appellee's internal policies mirror those established by DAS for the statewide program. Appellant noted that while DAS is responsible for designating generally which positions are considered "safety sensitive" and subject to drug testing, individual agencies can designate additional positions that are subject to testing within their own agency.

She testified that Appellee has modified DAS' general Drug Free Workplace program policy with regard to auto accidents and property damage to make it more specific – when damage exceeds a certain dollar amount, Appellee requires drug testing of the employee(s) involved. Appellant confirmed that she is responsible for updating the Drug Free Workplace policies to reflect statutory changes, as well as any internal modifications to the policies, and recalled that she worked with the Director of Labor Relations and the Director of Fleet Management to develop internal notification procedures reflecting that modification.

Appellant testified that Appellee's policy on employee background checks reflects the terms of the Ohio Revised Code, but has been modified for specific positions within the agency. She explained, for example, that Appellee's policy requires that Investment Managers and unclassified employees undergo not only a Bureau of Criminal Investigation (BCI) check, which is required by statute, but are also fingerprinted for an Federal Bureau of Investigation (FBI) check, which is an additional safeguard required by Appellee. Appellant recalled that she met with the Chief Human Resources Officer and others to make the decision that fingerprinting should be included in the background check policy.

Appellant noted that she met with the Director of the Special Investigations Unit to suggest that Highway Patrol background checks no longer be required for Special Investigations personnel because the information gained through fingerprinting was more comprehensive than the Highway Patrol checks. She explained that she talked with the Director before implementing the change because it affected his employees, but stated that she made the actual decision to remove the requirement for Highway Patrol background checks.

Appellant indicated that she worked with Appellee's Chief Ethics Officer to create the Personal Trading policy. She observed that Appellee's policy exceeds the requirements of the Ohio Revised Code. Appellant explained that she is responsible for ensuring that all employees to whom the policy applies are provided with a copy of the policy and with the forms they are required to submit, and then checks to be sure that those forms are submitted in a timely fashion. She noted that she compares covered employees' investments to agency investments to make sure that they do not overlap, clarifies any issues and reports back to the Personal Trading Committee on employee activity.

Appellant testified that she created the procedures for background checks and drug testing that are contained in Appellee's Personnel Resource Guide (the Resource Guide) and is responsible for keeping them up to date. She indicated that she updated the resignation/retirement procedures contained in the Resource Guide to reflect changes in Appellee's policy; Appellant confirmed that the policy was issued through the Labor Relations Department. She recalled that she also updated the agency's records management policy issued through the Legal Department and assisted in developing the Personnel and Benefits component of that policy. Appellant noted that she is also responsible for training the staff in her department on records retention and management.

She noted that she has updated almost every procedure in the Resource Guide to reflect changes in the law, agency modifications or agency goals over the past 12 years. Appellant confirmed that she is also responsible for distributing and maintaining Declaration of Material Assistance (DMA) forms for all new hires, and completes and submits salary surveys on a yearly basis

Dee Seidenschmidt testified that she is presently employed by Appellee as Director of Personnel and Benefits and has held that position for approximately

fourteen years. She confirmed that she is Appellant's immediate supervisor and is familiar with her job duties.

Ms. Seidenschmidt noted that Appellant performs a great deal of her work independently and rarely needs to ask the witness a question in order to make a decision. She testified that Appellant was responsible for making decisions with regard to the background check process for Investment Managers and Special Investigations employees. The witness noted that Appellant has sole responsibility within the department for the Drug Free Workplace program.

Ms. Seidenschmidt stated that because Appellant has been in the department for so many years, she is the resident expert in many areas and can provide work direction to the Human Capital Managers on some issues. She observed that Appellant answers inquiries regarding departmental policies and procedures and researches questions if she does not know the answer.

The witness recalled that Appellant worked independently with the Chief Ethics Officer, Chief Investments Officer, and Chief of Human Resources to develop the personal trading policy. Ms. Seidenschmidt noted that Appellant meets periodically with the Investments Managers and determined that the department would be responsible for monitoring compliance with the policy. She indicated that Appellant has handled any issues involved with the few trading transactions that have been questioned. The witness confirmed that Appellant is also responsible for incorporating revisions into the Resource Guide reflecting changes to the law and changes in Appellee's policies, such as reference checks and the resignation policy.

Ms. Seidenschmidt confirmed that Appellant tracks the departmental budget, monitors and approves expenditures, and works with the appropriate personnel outside the department to resolve any discrepancies. She noted that Appellant supervises assigned staff and enforces policies and procedures. The witness recalled that Appellant identified a need to track several types of information that are processed through her area, such as DMA forms, and worked with her staff to develop a process for monitoring that information.

Ms. Seidenschmidt indicated that Appellant provides input to Department goals and objectives and has worked with the witness to chart workflows and incorporate the duties performed by her staff. She noted that because Appellant understands the processes, her recommendations are usually adopted.

Stacie Hart testified that she is presently employed by Appellee as a Human Capital Management Analyst and indicated that she was part of the team that prepared the management response to Appellant's audit request. She indicated that she reviewed Appellant's portion of the position audit questionnaire, as well as the portion of the questionnaire that was completed by Ms. Seidenschmidt. The witness noted that it was her conclusion that although Appellant did communicate policy changes and intent, and make revisions on her own based on statutory or agency changes and direction from other staff, Appellant did not formulate policy. Ms. Hart stated that it was Appellee's position that only the Director of BWC or the Director of a department has the authority to formulate policy.

Bobbi Lind testified that she is presently employed by the Department of Administrative Services (DAS) as a Human Capital Management Senior Analyst, a position she has held for approximately twenty years. She indicated that although she did not personally conduct the audit of Appellant's position, she was familiar with the recommendation made by the DAS analyst and the supporting rationale for the recommendation. Ms. Lind noted that the DAS analyst determined that there were multiple classification specifications that could be applied to Appellant's position, but that the classification that reflected Appellant's most complex responsibilities was Public Inquiry Supervisor. The witness observed that the analyst also considered the Human Capital Management Associate classification, which reflected Appellant's responsibility for the human resources sub-programs of background checks and the Drug Free Workplace program, but that placing Appellant's position in that classification would have been a down-grade in classification.

FINDINGS OF FACT

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

The job duties described by Appellant in her position audit questionnaire present a substantially accurate description of her responsibilities, both at the time of the audit and as of the date of record hearing.

Appellant coordinates the agency's Drug Free Workplace program, updates policies to reflect changes in the law and agency-specific modifications, makes suggestions for changes and works with agency directors and/or chiefs to develop

new policies implementing those changes. Appellant created procedures for administering the drug testing policies and is responsible for keeping those procedures up to date.

Appellant coordinates the agency's background check function. She makes suggestions for changes and works with agency directors and/or chiefs to develop new policies implementing those changes. Appellant created procedures for administering background checks and is responsible for keeping those procedures up to date.

Appellant worked with Appellee's Chief Ethics Officer to create the Personal Trading policy and is responsible for monitoring compliance of affected employees with the policy. She clarifies issues as necessary and makes reports to the Personal Trading committee on employee activity.

Appellant updated the resignation/retirement procedures contained in the Resource Guide to reflect changes in Appellee's policy. She updated the agency's records management policy issued through the Legal Department and assisted in developing the Personnel and Benefits component of that policy.

Appellant is responsible for tracking the departmental budget, monitoring and approving expenditures, and working with the appropriate personnel outside the department to resolve any discrepancies.

Appellant supervises assigned staff and enforces policies and procedures. She is responsible for training the staff in her department on records retention and management.

Appellant performs her job duties independently with minimal supervision from Ms. Seidenschmidt. She answers inquiries on behalf of her supervisor regarding departmental policies and procedures and researches questions as needed.

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 conducting this review of Appellant's job duties, the classification series of Executive Secretary, Customer Service Assistant, Human Capital Management, and Administrative Assistant were considered.

The series purpose of the Executive Secretary classification is to independently provide non-routine administrative & secretarial services to a manager in order to facilitate the administration of the office. The purpose of the Customer Service Assistant series is to provide assistance, information and/or process transactions for internal and/or external customers in response to inquiries, requests and/or complaints received. The series purpose of the Human Capital Management classification is to perform, coordinate &/or manage human resources programs. And finally, the series purpose of the Administrative Assistant

classification is to assist in program direction by relieving superior of administrative duties & assisting in program direction. Upon an examination of the series purpose section of each of these classification series specifications and an evaluation of the testimony and evidence regarding the job duties performed by Appellant, I find that both the Human Capital Management classification and the Administrative Assistant classification describe, to some extent, the job duties performed by Appellant. Of those two series, however, I find that the classification series which best describes the focus of Appellant's overall responsibilities is the Administrative Assistant classification series.

Accordingly, the classification specifications considered in the following analysis were Administrative Assistant 1, classification number 63121; Administrative Assistant 2, classification number 63122; and Administrative Assistant 3, classification number 63123. As noted above, 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, and responsibility for formulation and implementation of program policy.

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

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

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

... 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.

It 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. In addition, the classification

specification adds the requirement that an incumbent must formulate and implement program policy.

The class concept of the Administrative Assistant 3 classification specification provides that an incumbent:

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

* * * * *

Testimony and evidence presented at record hearing indicated that Appellant answers inquiries on behalf of her supervisor regarding departmental policies and procedures and researches questions as needed. The position audit questionnaire completed by Appellant and submitted at record hearing indicates that Appellant also attends meetings in her supervisor's absence. While there was some testimony establishing that Appellant has participated in the process of establishing departmental goals and is able to assist Human Capital Managers with regard to some issues, based upon knowledge gained over her years of service, the record did not demonstrate that Appellant acted on behalf of Ms. Seidenschmidt in performing these duties. Accordingly, I find that the duties performed by Appellant on behalf of her superior are more complex than the routine administrative duties outlined in the Administrative Assistant 1 classification specification and most closely correspond to the non-routine administrative tasks outlined in the illustrative job duties of the Administrative Assistant 2 classification specification. I further find that these duties are not sufficient to meet the definition of relieving a superior of a "variety of difficult administrative duties," as contemplated by the Administrative Assistant 3 classification specification.

In order to fulfill the remainder of the required duties contained in the class concept for the Administrative Assistant 2 classification specification, Appellant must also formulate and implement program policy. No evidence was presented at record hearing to support a conclusion that Appellant has independent authority to formulate program policy. Testimony did establish, however, that she identifies areas in which it would be advisable to revise policy, based upon statutory changes or agency practices, proposes and recommends specific policy changes to directors and/or chiefs of the impacted programs and/or divisions, and upon gaining their assent, implements the proposed policy changes. I find that although Appellant

does not have the authority to unilaterally implement policy changes within the agency, her collaborative work with administrators outside her department is sufficient in nature and scope to meet the definition of "formulate and implement program policy," as contained in the Administrative Assistant 2 classification specification.

Based upon the information contained in her position audit questionnaire, Appellant performs the foregoing duties for a minimum of twenty percent of her work time. Additional review of the State of Ohio's classification specifications revealed no classification specification that describes all of Appellant's job duties, therefore, this Board must choose the classification which most accurately describes the actual duties performed by Appellant. I find that the classification specification which best describes Appellant's responsibilities as a whole is that of Administrative Assistant 2.

Therefore, it is my **RECOMMENDATION** that Appellant's position be **RECLASSIFIED** to Administrative Assistant 2, effective with the first pay period following the date of her audit request.


Jeannette E. Gunn
Administrative Law Judge

JEG: