

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

Connie Frisby

Case No. 2020-REC-01-0013

Appellant

v.

Youngstown State University

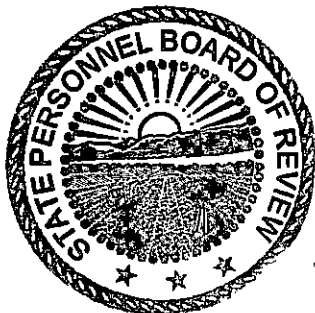
Appellee

ORDER

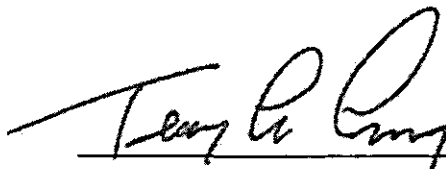
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including 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** the Job Audit Determination of Youngstown State University be **MODIFIED** and Appellant's position be **RECLASSIFIED** to Administrative Assistant 2, 13223, consistent with applicable statutory, administrative, and collective bargaining provisions, pursuant to R.C. 124.03 and R.C. 124.14.



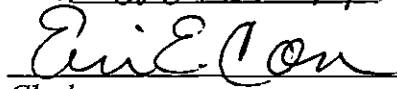
Casey - Aye
Tillery - Aye
McGregor - Aye


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 constitutes (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, November 17, 2020.


Clerk

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

NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. After the board has received the deposit, the transcript and copies of the file will be prepared and the cost of those items will be calculated. If the deposit exceeds the costs of these items, then a refund of the excess will be issued; if the deposit does not cover the full amount, then the appealing party will be billed for the outstanding balance. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD. Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

METHOD OF PAYMENT: for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE November 24, 2020. You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

If you have any questions regarding this notice, please contact the Board at 614/466-7046.

Case Number: 2020-REC-01-0013

Transcript Costs: \$1425.00 Administrative Costs: \$25.00

Total Deposit Required: * \$1450.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: December 2, 2020

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

Connie Frisby

Case No. 2020-REC-01-0013

Appellant

v.

September 29, 2020

Youngstown State University

James R. Sprague

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This case came to be heard on August 27, 2020. Appellant was present at hearing and was represented by Stanley J. Okusewsky, III, Attorney at Law. Appellee, Youngstown State University (YSU), was present through its designee, YSU Director of Organizational Development Jenn Drennen, and was represented by Jared T. Erb and Lorenzo Washington, Assistant Attorneys General. A telephone pre-hearing was held in this matter on July 29, 2020.

This cause comes on due to Appellant's timely filing of an appeal from a job audit determination that Appellant's position is appropriately classified as Administrative Assistant (AA) 1, 13222. Appellant believes her position would be more accurately classified as Administrative Assistant 2, 13223.

There was testimony at hearing regarding both the AA 1 and 2 classifications, as well as the classifications of Academic/Business Operations Specialist (A/BOS) 1 and 2, which have recently been introduced as part of YSU's Class Plan. The relevant duties of A/BOS 1 and 2 are substantially similar to those of AA 1 and AA 2. Accordingly, the undersigned considered the classifications of A/BOS 1 and 2 but did not include further analysis of them herein.

**CONSOLIDATED STATEMENT OF THE CASE
AND FINDINGS OF FACT**

Appellant Connie Frisby serves as an Administrative Assistant 1 for YSU's Department of Computer Science and Information Systems (within the School of Computer Science, information, and Engineering Technology). Appellant has been employed by YSU since 2004.

Appellant's immediate supervisor is Department Chair Carol Lamb, D.B.A., who has supervised Appellant since mid-July 2020. Dr. Lamb is supervised by Dean Wim L.A. Steelant, Ph.D. Dr. Lamb heads both the aforementioned department and school.

From a little after March 2017 until March 2020, Appellant was supervised by Coskun Bayrak, Ph.D. Dr. Bayrak passed away in March 2020. Additionally, because of the COVID-19 Pandemic, Appellant has worked remotely from March 17, 2020 until July 2020.

On or about July 1, 2020, Appellant's previous department (Computer Science and Information) merged with the Department of Engineering Technology. The new entity is housed in two separate buildings, which are located across campus from each other. It is headed by Dr. Lamb and includes: sixteen faculty, eight engineering techs, four program coordinators, and, currently, five student workers, whom Appellant essentially supervises.

On Monday through Thursday of a typical week (from mid-July 2020 until the present), Appellant and Dr. Lamb are physically separate. One of them works out of Meshel Hall on those four days and the other works out of Moser Hall for those same four days. They communicate via email on Monday through Thursday. On Friday, Appellant and Dr. Lamb physically meet to "de-brief and plan" regarding upcoming events and needs.

Extrapolating from evidence introduced at hearing, this means that as of the hearing date in this case Appellant and Dr. Lamb have only been in the same physical office environment for a handful of days since Appellant was assigned to Dr. Lamb as administrative support in mid-July 2020.

Appellant performs a variety of duties, many of which I find to be routine and administrative in nature. However, I find some of her duties to be non-routine and administrative in nature. More than a few of Appellant's non-routine duties were done on behalf of Dean Steelant, or directly at his behest.

An important duty of Appellant's was to create reports for the budget on a frequent basis. On a number of occasions under Chair Bayrak's tenure, Appellant was called upon to provide Dean Steelant with expedited reports, including those on the current and anticipated budgets. In Appellant's words, if the Dean requested anything, then-Chair Bayrak instructed her to "take care of it."

In November, Appellant would determine what dollar amounts were needed, including what moneys were encumbered, and what was needed

monthly, making it necessary for Appellant to calculate student workers' wages and fringes. (See e.g. Appellant's Exhibit 4 - Dean Steelant email: "RE: List of needed funds")

Appellant offered that, in January, she would provide the Dean with estimates for the following year for the entire departmental budget, using the prior two fiscal years as a baseline. Once she factored in other variables, Appellant would give the Dean her estimates.

Appellant also monitored departmental budget monthly spending and numerous accounts, from which Appellant would transfer money to ensure that expenses were covered. She indicated she unilaterally made a determination regarding these transfers and that the Chair would simply ask how much they had to spend.

While not a requirement for her position, it is noted that Appellant obtained an M.B.A. in 2018.

Appellant performed a variety of additional duties that can generally be categorized as routine in support of her Chair and her department.

Appellant was responsible for the rather complex logistics of scheduling classes for the semester, based on previous schedules and on changes that needed to be made. This included: room assignments; hours assigned; interaction with part-time faculty regarding availability for upcoming classes; and interaction with faculty regarding the need to fulfill requisite faculty workload hours under a formula established in the pertinent collective bargaining agreement.

Appellant completes new hire part-time faculty documents for processing and completes part-time faculty contracts for signature. She signs for the Chair in the Chair's absence and informs the Chair upon return. She investigates and inputs all work orders, ITS, and facilities information and maintains key and equipment inventories. She runs certain meetings in the Chair's absence.

This also includes the related duty of calculating instructor overtime, based on an agreed pre-set formula. She noted that Chair Lamb may be assuming more control over the workload planning function.

Appellee's Exhibit F (Bates 023 through 027) is the Position Report & Analysis completed by YSU Director of Organizational Development Jenn Drennen (Director Drennen). It is an excellent analysis that covers most of the areas pertinent to this Board's review.

Director Drennen begins her analysis by summarizing Appellant's duties and the percentages that Appellant submitted in her job audit request. After excluding those duties which I have previously identified herein either as "non-routine" or as "logistics of scheduling", we are generally left with the following, as discussed in Director Drennen's summary and analysis:

Appellant arranges and conducts prospective student/parent visits. She inputs/completes book orders.

Appellant inputs overrides into the Banner system after she analyzes an undergraduate student's eligibility to take additional courses. She also analyzes time conflicts if the start times of two classes in which a student wishes to enroll fall too closely to each other. Further, she analyzes whether it is feasible to override a classroom's designated student capacity limit to accommodate student needs. Currently, Appellant also verifies that students have sufficient hours to graduate and then codes them accordingly.

Appellant tracks on a weekly basis compliance with the Trade Adjustment Allowance for displaced workers who have been granted two years of additional training. Participants' attendance at class must be verified for continuing state eligibility for the program.

Appellant also conducts incidental student advising, if a student comes in and Appellant cannot locate anyone to assist the student. She used to perform this function more frequently. However, Dr. Bayrak wanted Appellant to have more time to devote to her core duties and, so, moved Appellant's office and instructed Appellant to diminish her percentage of time performing this task. Dr. Lamb indicated that, going forward, the program coordinators may become more involved in student advising. This is apparently because developing student schedules is a principal area of concern when a student seeks academic advising assistance.

An increasing percentage of Appellant's time may now be consumed by planning and attending special meetings such as those for the Industry Advisory Board. This increasing percentage of time also appears to include functioning as the principal assistant concerning planning and executing special events such as the Regional Planning Contest, NEOREP, the Industry Advisory Committee, and Student Organization events. Some of these are major external events that may offer a significant positive impact to YSU and to Appellant's department/school.

Upon a review of the testimony presented and evidence admitted at hearing, I find that many of Appellant's duties fall within the "routine,

administrative” description. However, I also find that a meaningful percentage of Appellant’s duties fall within the “non-routine, administrative” description. She has performed these duties both for her Chair and her Dean.

For the review period, Appellant has consistently worked under direction with a low level of intervention on the part of her supervisor. (See YSU AA Class Series - Appellant’s Exhibits 10 and 11) Appellant has also enjoyed a meaningful level of autonomy in her work during the review period -- this was particularly true under Dr. Bayrak’s tenure, but appears to have continued in a cognizable manner under Dr. Lamb’s tenure.

CONCLUSIONS OF LAW

This case presents the Board with an Appellant whose duties, when taken as a whole for the review period, mostly fall within the routine and administrative categories. That same Appellant, however, clearly performs meaningful, non-routine duties for a significant portion of her day. Accordingly, this Board should reclassify Appellant’s position to AA 2.

The primary criteria for this Board to consider when determining the most appropriate classification for a position are classification specifications, including the function statement, 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).

As a general rule, Appellants 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 the requisite job duties actually performed fall within those specified for the classification. See *Klug, supra*.

The Class Concept for YSU’s AA 1, 13222 Classification calls for an incumbent to work under “general supervision” and states, in pertinent part:

...Relieves supervisor of routine and/or administrative duties, and/or provides secretarial assistance through routine administrative tasks, independently providing explanation, orally and/or in writing, of services or activities of assigned area, including formulating interpretation of policies and procedures as they would

apply in given situation, and/or to provide secretarial assistance in a technical environment by performing routine administrative tasks, and/or to supervise student and non-regular office support staff. Makes recommendations regarding program activities and assists in developing new procedures related to established activities and assists in developing new procedures related to established program policy.

The Class Concept for YSU's AA 2 Classification calls for an incumbent to work "...under direction with a low level of supervision on the part of the supervisor..." and states, in pertinent part:

...Autonomously performs non-routine administrative tasks including, but not limited to, independently formulating decisions and/or judgements involving non-legal interpretation of policies and procedures as they would apply to any given situation to resolve problems, prepares correspondence and/or reports, or to carry out other assignments; relieves supervisor of routine and/or administrative duties, and/or provides secretarial assistance through activities of assigned area, including formulating interpretation of policies and procedures as they would apply in given situation, and/or to provide secretarial assistance in a technical environment by performing routine administrative tasks, and to supervise student and non-regular office support staff. Makes recommendations regarding program policy.

The AA 1 and AA 2 class concepts are principally differentiated in **three key areas**:

- 1) level of supervision ("general" for the AA 1 versus "low level" for the AA 2);
- 2) categorization and mix of duties (almost entirely routine, administrative duties for the AA 1 versus a mix of non-routine, administrative duties with routine, administrative duties for the AA 2); and
- 3) level of autonomy enjoyed by the employee (autonomy not generally present for the AA 1 versus generally present for the AA 2).

For the review period, Appellant performed under a low level of supervision, performed a mix of routine and non-routine duties, and enjoyed a meaningful level of autonomy in her work. Thus, Appellant fulfills the AA 2 class concept.

The job duties components of the respective AA 1 and 2 Specifications essentially reflect and amplify the respective class concepts for AA 1 and AA 2. Therefore, it is unnecessary to review the respective job duties sections in minute detail.

Appellant's situation may be unique. Her supervisor was facing a prolonged, terminal illness. Appellant and her cohorts began working remotely due to COVID-19 and when Appellant physically returned to campus in July, she was assigned a newly formed, merged four-program work unit under Dr. Lamb. Finally, even with their physical return, Appellant and her supervisor are generally only present in the same physical space once per week. It seems unlikely that reclassifying Appellant's position under these unique circumstances would present any deleterious impact to YSU's Class Plan.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the Job Audit Determination of Youngstown State University and **RECLASSIFY** Appellant's position to Administrative Assistant 2, 13223, consistent with applicable statutory, administrative, and collective bargaining provisions, pursuant to R.C. 124.03 and R.C. 124.14.

/s/ James R. Sprague

James R. Sprague
Administrative Law Judge