



**STATE OF WASHINGTON**  
**OFFICE OF THE STATE HUMAN RESOURCES DIRECTOR**

DIRECTOR'S REVIEW PROGRAM  
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November 30, 2012

TO: Teresa Parsons, SPHR  
Director's Review Program Supervisor

FROM: Kris Brophy, SPHR  
Director's Review Investigator

SUBJECT: Schehera Gates v. Employment Security Department (ESD)  
Allocation Review Request ALLO-12-005

**Director's Determination**

As the Director's designee, I carefully considered all of the documentation in the file, including the exhibits presented during the Director's review conference and the verbal comments provided by both parties. Based on my review and analysis of Ms. Gates' assigned duties and responsibilities, I conclude her position is properly allocated to the WorkSource Specialist 2 classification.

**Background**

On November 7, 2011, Employment Security Human Resources (ESD-HR) received Ms. Gates' Position Review Request (PRR) form, requesting that her position be reallocated to the WorkSource Specialist 3 classification (Exhibit B-1).

Ms. Meredith Huff, ESD-HR, conducted a position review and by letter dated January 6, 2012, notified Ms. Gates that her position was properly allocated to the WorkSource Specialist 2 classification (Exhibit B-4).

On January 27, 2012, the Office of the State Human Resources Director received Ms. Gates' request for a Director's review of ESD's allocation determination (Exhibit A-1).

On September 18, 2012, I conducted a Director's review telephone conference. Present for the conference Schehera (Scher) Gates, and Ms. Teresa Eckstein, HR Manager, ESD.

Following the review conference, the parties submitted additional information. Ms. Gates submitted a final statement on October 1, 2012. This information has been added to the record and incorporated as exhibits herein.

### **Rationale for Director's Determination**

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

### **Duties and Responsibilities**

Ms. Gates works as a WorkSource Specialist in the agency's WorkSource Clallam Office. Her position provides a variety of interviewing, job referral, and placement services to customers. She provides and shares information regarding the full range of agency programs and services. Ms. Gates states in the PRR that the purpose of her position is to provide the entire range of services to customers from assessment, job matching, job referring and job developing to get unemployed workers back to work.

Ms. Gates' duties and responsibilities are summarized from the PRR (Exhibit B-1) as follows:

60% Deliver employment and training services to customers. Provide staff-assisted customer services, core and intensive, conduct group and individual in-depth interviews, registrations, review job readiness, employment barriers and customer needs. Administer skill; interest, and aptitude tests using formal tools, identify employment and/or training goals, develop and deliver and monitor service plans; develop recommendations for continuous engagement.

Provide information and the full range of agency services and programs including unemployment insurance; direct to appropriate internal or external resources and/or support services.

Provide career and/or employment guidance and training information. Refer customers to job search, training providers and/or resources through WorkSource and/or partner services.

Assist customers in use of resource center services including technology, resumes, application and interview skills training.

Outline labor market information and opportunities; assist with development of job search plans/Reemployment Service Summary; refer customers to job orders and/or external openings.

Provide basic information on how to apply for unemployment benefits, direct UI customer concerns, issues and problems as liaison, conduct one-on-one interviews.

Plan, administer, and report UI reemployment activities including information gathering and job matches; coordinate and promote maximum attendance at mandatory workshops.

Schedule and conduct Job Search Review Interviews; audit customer unemployment claims to ensure work search requirements are met under the Unemployment insurance laws; develop claimant action plan or work search directives; conduct follow-up to assist UI Office and customers; enter information into SKIES and GUIDE.

30% Facilitate Job Hunter Series and other intensive job search workshops. Design workshops for targeted populations such as claimants on Federal or State extensions.

10% Assure customer service and satisfaction: Answer phone calls, answer questions and direct to program teams; provide timely response and services through all forms of customer service (phone, email, face-to-face). Provide and maintain quality customer service; perform triage and direct customers to necessary resources; assist with access to services and activities.

Ms. Gates' supervisor is Mr. Merle Pender, WorkSource Specialist 6. Mr. Pender completed the supervisor's section of the PRR and agrees that Ms. Gates' description of duties and responsibilities is accurate and complete.

Mr. Pender states in his comments that Ms. Gates makes decisions about the content and format of her workshops and revises the content based on customer feedback. He also states Ms. Gates worked directly with the WDA 1 PMA [Workforce Development Area 1 Pacific Maritime Association] on a Focused Follow-Up pilot for UI Claimants. He states that she determines her workload for the project; trouble shoots issues that arise, and ensures that information is accurately reported into SKIES. He states that she made suggestions regarding the project and regularly updates staff and management on results.

He also states Ms. Gates works with both the CPP [Claimant Placement Program] and JSR [Job Search Review] programs and serves as the back-up for scheduling both programs. He states that she problem solves claimant issues and then takes appropriate action based on her judgment.

#### Summary of Ms. Gates' Perspective

Ms. Gates asserts the majority of her duties meet the requirements of the WSS 3 classification. Ms. Gates asserts her duties in the WorkSource Clallam office include delivering core and intensive services to WorkSource clients.

Ms. Gates asserts her work is consistent with the duties described in the WSS 3 class based on the following points. (See Exhibit A-7)

Ms. Gates asserts she conducts group and individual employment and/or job training counseling and outlines options with clients. She states in her comments that she facilitates workshops for the Unemployment reemployment orientation (UIRO) and the Emergency Unemployment Compensation program (EUC), plus the Extended Benefits (EB) program workshop. She states that she conducts group counseling on the Training Benefit (TB) program, along with the Commissioner Approved Training (CAT) program. She states that she explains the details of the programs, how clients may qualify, how to determine where their occupations fall in the demand/decline list and how to apply for demand occupations.

Ms. Gates contends that she conducts intensive job search workshops and related support group activities. She asserts she uses intensive job search activities in the EUC and EB workshops, and when working with the "job club" network group which meets at the WorkSource center. Ms. Gates asserts she uses intensive job search activities for the one-on-one job search reviews she performs with clients.

Ms. Gates asserts she assists job seekers and confirms work search activities, develops employability plans, administers skill, interest and aptitude tests, conducts file searches to match applicants to openings, and screens applications for referral to jobs. In her comments, Ms. Gates states:

"This is all done during a job search review and/or the EUC or EB workshops. I use Employment Readiness Scale testing, along with KeyTrain assessments with clients. All applicants that I see are screened before any job referrals are made. Plus I do job matches with each person to see if there are any jobs to match their experience. I also do this with my Focused follow-up program. I follow-up with clients who we have not seen for 60 days to inquire about how we can better serve them. I usually have some sort of job lead for them."

Ms. Gates asserts her position recruits customers and promotes WorkSource services and facilitates customer orientation to WorkSource services. She asserts that she monitors and records data into management information systems. She contends that she identifies customer needs and employment barriers and provides directions to appropriate internal or external resources. Ms. Gates asserts that she monitors, screens and refers job seekers utilizing the Washington WorkSource website and other resources. Ms. Gates asserts she provides directions for obtaining Unemployment Insurance (UI) information, and she gathers feedback to ensure customer satisfaction and assists in the analysis of data gathered.

Ms. Gates contends she performs the same duties as other employees in the office who are allocated to the WSS 3 class and her position should be reallocated to the WSS 3 class.

**Note:** In Byrnes v. Dept. of Corrections, PRB No. R-ALLO-06-005 (2006), the Board held that "[w]hile a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position." Citing to Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

#### Summary of ESD's Reasoning

While ESD acknowledges a portion of Ms. Gates' duties include performing higher level WSS 3 work, ESD contends Ms. Gates' position does not provide intensive services to clients for a majority of her work time as required. ESD asserts the majority of Ms. Gates' time is spent providing core services to WorkSource customers, including providing information and answering questions, conducting initial assessments, interviewing job applicants to determine job readiness, and making referrals to job openings. ESD acknowledges that a portion of Ms. Gates' time is spent performing at the WSS 3 level when she uses skills assessment tools while facilitating workshops and orientations; however, these duties do not constitute a majority of her

work time. ESD asserts the portion of her work completing initial assessments and facilitating Job Hunter modules and other workshops falls within the WSS 2 classification. Therefore, ESD asserts Ms. Gates' position is properly allocated to the WorkSource Specialist 2 class.

#### Comparison of Duties to Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

#### Comparison of Duties to WorkSource Specialist 3

The Definition for the WorkSource Specialist 3 class states:

(1) Delivers direct core & intensive services to WorkSource, Claimant Placement Program, Food Stamps, WorkFirst Post-Employment Labor Exchange, or College Co-Location customers;

OR

(2) is responsible for providing bilingual outreach services in a designated Migrant and Seasonal Farmworker (MSFW) service area;

OR

(3) is responsible for providing outreach services to eligible Disabled Outreach Veterans' (DVOP) program customers;

OR

(4) as an Employer Outreach Specialist contacts local employers to develop prospective job openings and provide information on services available through WorkSource.

The Distinguishing Characteristics for this class state:

This is the fully qualified professional level. Positions at this level work independently, and spend a majority of time providing intensive services or conducting outreach activities. May issue transportation vouchers or initiate supportive service vouchers, but do not have the authority to obligate supportive service or training funds.

[Emphasis added]

Although the typical work examples do not form the basis for an allocation, they lend support to the work envisioned within a classification. The following provides examples of the level of intensive services work assigned to the WorkSource Specialist 3 class, as stated in the class specification:

Conducts group and individual employment and/or job training counseling, and outlines options with clients;

Conducts intensive job search workshops and related support group activities;

Assists job seekers and confirms work search activity; develops employability plans; administers skill, interest, and aptitude tests using formal tools.

Ms. Gates' position does not fully meet the requirements of the Definition of the WorkSource Specialist 3 class.

Ms. Gates' position does not meet the following qualifiers stated in the Definition of this class. Ms. Gates does not provide outreach or bilingual outreach services in a designated Migrant and Seasonal Farmworker (MSFW) service area. Ms. Gates does not have responsibility for providing outreach services to eligible Disabled Outreach Veterans' (DVOP) program customers. Further, she is not an Employer Outreach Specialist with responsibility for contacting local employers to develop prospective job openings and provide information on services available through WorkSource.

A portion of Ms. Gates' work does reach one aspect of the Definition of this class of providing core and intensive services to clients. However, the Distinguishing Characteristics further require incumbents to spend a majority of time providing intensive services to clients. In its allocation determination letter, ESD acknowledges Ms. Gates spends a portion of her time providing higher level intensive services to customers. This includes using skill assessment tools while facilitating orientations and workshops, and also designing special workshops. However, this portion of work does not constitute a majority of Ms. Gates' time.

In its allocation determination, (Exhibit B-4), ESD indicates that Ms. Gates works with Lisa Brown in facilitating two-hour workshops twice a week. Ms. Gates also presents orientations, emergency unemployment and Job Hunter workshops. Ms. Gates may revise the content of a workshop to make it more effective based on feedback from the clients.

A portion of this work includes conducting assessments (i.e. tests) as part of training during the Job Hunter and other workshops. The PRR indicates that Ms. Gates administers skill, interest, and aptitude tests for clients during the Job Hunter workshops. As Mr. Pender states in his comments and as Ms. Gates explained during the review conference, she modifies established workshop curriculum based on feedback from customers attending the training, student need, programmatic changes and other factors as needed. Mr. Pender indicates in his comments that significant changes to the curriculum would have to be cleared by the Olympia Headquarters office. However, Ms. Eckstein stated during the review conference that ESD considers the Job Hunter workshops to be basic-level training series.

Additional portions of Ms. Gates' duties reach but are not fully consistent with the requirements of this class. For example, Ms. Gates stated during the review conference that she assists job seekers and confirms work search activity for clients, which includes developing employability plans. Ms. Gates provides customers access to the Keytrain online assessment and use other assessment tools to review a client's readiness for employment. She assists customers in developing action plans and she uses her judgment in reviewing assessment results. However, Ms. Gates does not regularly conduct group and individual employment and/or job training counseling at the level anticipated by this class. Further, the level of work Ms. Gates performs conducting initial assessments and conducting job search reviews is consistent with WSS 2 level responsibility for providing direct core services to customers.

In total, a portion of Ms. Gates' time is spent providing higher-level intensive services to clients at the Clallam WorkSource Office. However, this work is not the primary focus of her position and does not constitute a majority of her work time. Based on the totality of information presented, the majority of Ms. Gates' time is spent providing core services to a variety of WorkSource customers, which includes providing information and answering questions, interviewing job applicants to determine job readiness and making referrals to job openings.

Therefore, the overall focus and majority of duties performed by Ms. Gates in her position do not meet the requirements of the WSS 3 class; therefore, her position should not be allocated to the WSS 3 class.

### Comparison of Duties to WorkSource Specialist 2

The Definition for this class states:

Performs professional duties in the delivery of direct core services to customers. Conducts in-depth interview and provide job referrals, placement services, and information regarding agency and partner programs.

The Distinguishing Characteristics for this class state:

This is the fully qualified working level. Positions at this level differ from the WorkSource Specialist 1 in that they work independently and provide a full range of services.

The majority of time is spent performing assignments such as:

- Interviewing job applicants to determine job readiness and/or making referrals to job openings.
- Providing information and answering questions on the full range of agency core services and programs.
- Monitoring Resource Room activities and assisting with workshops.
- Writing and verifying orders.

The WorkSource Specialist 2 class describes the primary focus and overall level of responsibility assigned to Ms. Gates' position. Ms. Gates independently provides a full range of direct core services to clients. The majority of her time is spent interviewing job applicants to determine job readiness and/or making referrals to job openings, conducting initial assessments, providing information and assistance and answering questions on the full range of agency core services and programs. Ms. Gates facilitates Job Hunter and other basic-level training sessions and employment workshops.

Ms. Gates performs a variety of other core services including reviewing and following up with all job order clients to determine if there are customers who would match the job order. She records information into the SKIES (labor exchange) and GUIDE (Unemployment) systems. She records her notes following her meetings with customers. During assessments, Ms. Gates discusses and identifies barriers to employment and either takes action or refers the customer to partner resources for further in-depth help.

Ms. Gates works with individuals to show and explain how the WorkSource website works. She facilitates workshops which explain to customers how to upload resumes onto the website so

they can be utilized for on-line referrals. Each identifies and determines appropriate work history codes and has written a list of Onet codes most used in the Clallam WorkSource office.

Ms. Gates provides directions for obtaining Unemployment Insurance (UI) information. She explains to customers the on-line application and "phone-in" processes for unemployment claims. She assists customers in completing on-line applications. She accesses the GUIDE online system to review claims and determine problems. She explains how to contact the claims center and which option to push on the phone line. As the UI liaison, Ms. Gates helps claimants get small issues cleared on their claim through the claims center contacts.

Ms. Gates is performing WSS 2 level duties the majority of the time and is appropriately classified as a WSS 2. The majority of work she performs which includes facilitating orientations and conducting weekly workshops; conducting initial assessments and making job matches and referrals for WorkSource customers; providing basic information about unemployment compensation, and providing other information on the full range of agency core services and programs all fit within the WSS 2 level class.

It is clear that Ms. Gates uses her knowledge and experience to provide intensive services to WorkSource clients for a portion of her time. However, the primary focus of her position, and the majority of her duties as a whole, is more accurately and fully described by the WorkSource Specialist 2 classification.

A position's allocation is not a reflection of performance or an individual's ability to perform higher-level work. Rather, it is based on the majority of work assigned to a position and how that work best aligns with the available job classifications. Based on the level and scope of the overall duties and responsibilities assigned to Ms. Gates' position, the WorkSource Specialist 2 classification is the best fit.

When determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

Further, positions are to be allocated to the class which best describes the majority of the work assignment. Ramos v DOP, PAB Case No. A85-18 (1985).

In this case, the majority of the duties assigned to Ms. Gates' position and her level of responsibility are best described by the WorkSource Specialist 2 classification. Ms. Gates' position should remain allocated to that class.

### **Appeal Rights**

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington

personnel resources board . . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 4<sup>th</sup> floor of the Insurance Building, 302 Sid Snyder Avenue SW, Olympia, Washington. The main telephone number is (360) 902-9820, and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

c:     Schehera Gates  
       Teresa Eckstein, ESD  
       Lisa Skriletz, OSHRD

Enclosure: List of Exhibits

**SHEHERA GATES v ESD**

**ALLO-12-005**

A. Schehera Gates Exhibits

1. Appeal request from Scher Gates requesting Director's Review received January 27, 2012
2. Allocation determination letter from Meredith Huff to Schehera Gates dated January 6, 2012 ESD
3. Email from Scher Gates to Meredith Huff dated February 24, 2012 with attached WorkSource Specialist 3 posting for Klickitat County
4. WorkSource Specialist 3 posting for Everett
5. WorkSource Specialist 3 posting for Goldendale/White Salmon
6. WorkSource Specialist 3 posting for Walla Walla
7. Email from Scher Gates to Kris Brophy dated September 25, 2012 with attached supplemental letter regarding her position duties.
8. Email from Scher Gates to Kris Brophy dated October 1, 2012 with additional statement.

B. ESD Exhibits

1. Position Review Request for Scher Gates' position received November 7, 2011
2. WDA 1 Olympic Area Organizational Chart dated November 16, 2011
3. Position Description Form for Scher Gates' position received October 29, 2010 by ESD HR
4. Allocation determination letter from Meredith Huff to Schehera Gates dated January 6, 2012 ESD
5. DOP Class Specification for WorkSource Specialist 2, (358F)
6. DOP Class Specification for WorkSource Specialist 3, (358G)
7. ESD HR comparison table between WSS 3 and WSS 2 duties titled, "ESD HR Notes – WSS3 Intensive Services and Core Services"

C. Director Exhibits

1. Email from Kris Brophy to the parties dated November 13, 2012 closing the supplemental information submittal process