



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
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June 7, 2013

TO: Ben McDonald

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

SUBJECT: Ben McDonald v. Department of Corrections (DOC)
Allocation Review Request ALLO-12-046

On March 26, 2013, I conducted a Director's review telephone conference regarding the allocation of your position. In addition to you, the following individuals were present during the Director's review conference: Tina Cooley, Human Resources (HR) Consultant representing DOC; Melia Olsen, HR Operations Manager; Lois Bergstrom, Regional HR Manager; Fran Halpain, HR Manager, Southwest (SW) Region; Sarah Bevers, HRC 3, SW Region; Amy King, HRC 3, Stafford Creek Corrections Center (SCCC); Teresa Rucker, HRC 3, SCCC; and Heidi Graham, HRC 3 Washington Corrections Center (WCC).

Director's Determination

This position review was based on the work performed for at least the six-month period prior to, June 11, 2012, the date the SW Region HR Office received your request for a position review. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Human Resources Consultant 3 classification.

Background

Your position is assigned to the SW Region Community Corrections Team. You report to the SW Region HR Manager, Jennifer Elksnitis at the time of your request, who reports to the Regional HR Manager, Lois Bergstrom. Ms. Bergstrom serves as the HR Manager for three prison facilities in Eastern Washington and Community Corrections statewide (Seattle, Spokane and Lacey). Under the SW Region HR Manager, your position shares responsibilities with another Human Resources Consultant 3 (HRC 3) position for Section 4 of Community

Corrections, and each of you supervises a Human Resources Consultant Assistant 2 (HRCA 2) position (Exhibit B-4).

During the Director's review conference, you indicated there had been a lot of turnover in the SW Region HR Manager position, and Ms. Elksnitis had only supervised your position from March – June 2012.

On June 11, 2012, you submitted a Position Review Request (PRR) to your HR Office requesting that your Human Resources Consultant 3 (HRC 3) position be reallocated to the Human Resources Consultant 4 (HRC 4) job class. Ms. Elksnitis signed the PRR indicating that it was an accurate reflection of your work. Ms. Bergstrom also signed the PRR and added comments as well (Exhibit B-2).

During the Director's review conference, Ms. Bergstrom clarified there is no disagreement about the duties you perform; however, she described the level of work you perform as "senior-level." Ms. Bergstrom further clarified that she had mistakenly wrote "journey-level" on the PRR, which she also corrected in a July 5, 2012 email to HR Consultant Sarah Conly:

I should have used the term 'Senior-level' rather than 'Journey-level.' The description you have provided completely describes the level of authority, expertise, and autonomy of this position, all the time, every day (Exhibit B-8).

On July 26, 2012, Ms. Olsen issued an allocation decision denying reallocation to the HRC 4 classification (Exhibits A-2 and B-11). In summary, she concluded your position provides a full range of human resource services for the SW Region under the general supervision of an HR Manager. Ms. Olsen determined your duties fit the senior-level of work and those duties along with supervision of a paraprofessional level HRCA 2 position fit within HRC 3 job class.

On August 3, 2012, the Office of the State Human Resources Director received your request for a Director's review of DOC's allocation determination (Exhibits A-1 and A-3).

The following summarizes your perspective as well as your employer's:

Summary of Mr. McDonald's Perspective

You contend that you independently consult and advise supervisors, managers, and the appointing authority on all HR matters for your assigned clients in Community Corrections, Section 4. You emphasize that you have had four different supervisors over the past year, and that you and the other HRC 3 position in the SW Region have primarily handled HR matters for your assigned areas in Community Corrections without managerial oversight. As a result, you assert your position has been responsible for resolving the most complex and highly sensitive human resource issues having wide impact. Further, you contend your position requires expert level knowledge to consult and advise executive managers and that you represent the agency on a variety of HR issues. You also point out that your position supervises another HR position. Overall, you assert your position meets the expert level and supervisory requirements indicative of the HRC 4 classification.

Summary of DOC's Reasoning

DOC agrees your position performs a broad range of HR duties and acknowledges your position serves as an HR Generalist with expertise in multiple areas. However, DOC contends highly complex and sensitive issues are always done in consultation with a higher level HR manager. While your position has knowledge and expertise regarding a variety of HR issues, DOC asserts the agency is structured in a way that assigns expert-level work to specialist units at Headquarters. For example, DOC indicates that expert-level work related to disciplinary actions resides with Labor Consultants in the Labor Relations Unit and expert-level work regarding classification is handled in the Classification and Compensation Unit. While a workplace investigations unit exists, DOC notes a variety of positions can perform investigations once proper training has been completed.

DOC emphasizes that expert-level positions in specialized units have greater decision-making authority. DOC acknowledges you work directly with customers in Community Corrections Section 4, consulting, advising, and making recommendations but asserts final documentation is reviewed by higher level HR staff. Further, DOC acknowledges your contributions as part of a larger team effort, such as layoff, but contends a higher level HR Consultant serves as a lead over the team. DOC also states that Headquarters provides guidance and templates for field staff to follow. In total, DOC contends that independent, broad and complex human resource work and supervision of paraprofessional or lower level professional staff fit within the HRC 3 job class. Therefore, DOC asserts your position is properly allocated at the HRC 3 level.

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

In considering the duties and responsibilities assigned to your position, I reviewed the PRR that you completed in conjunction with the Position Description Form (PDF) for your position. Although you had two different supervisors from the August 2011 PDF to the June 2012 PRR, Ms. Bergstrom also reviewed and signed both of these documents as your second-level supervisor.

In summary, the PDF describes your position's purpose as follows (Exhibit B-3):

As a member of the SW Region Community Corrections Human Resources (HR) team at the SW Region and under the direction of the SW Region HR Manager, this position provides HR consultation to staff and managers in the resolution, development, and delivery of human resource related issues/services . . .

The PDF also states that your position works under general supervision and provides a full range of HR services for the region. The majority of duties include the following:

Provide senior-level advice, consultation and guidance to managers and supervisors regarding corrective action, just cause principles, internal investigations and disciplinary actions, performance management, grievance process, conflict resolution, recruitment, layoff process and reasonable accommodation in providing the full range of personnel services in compliance with CBAs policies, procedures and WACs.

The duties relating to disciplinary actions and grievances involve consulting with and advising supervisors and managers about processes, making suggestions and recommendations, drafting pre-disciplinary and disciplinary letters, ensuring compliance with agency policies and collective bargaining agreements (CBAs), participation in grievance hearings and informal resolution to union/management problems, and may assist or represent at disciplinary meetings and hearings. In addition, the PDF indicates your responsibility to supervise an HRCA 2 position.

Much of the work you describe on the PRR is consistent with the PDF. However, you describe your position as an "expert level human resources consultant . . . responsible for providing comprehensive . . . services regarding the most complex issues. . ." You further state that your position works "under minimal supervision" with the responsibility for "resolving difficult human resources issues having broad potential impact" (Exhibit B-2).

On the PRR, you also provide examples of work that you believe fit the HRC 4 level such as handling or overseeing the most sensitive, complex or critical human resource issues, which include FMLA [Family Medical Leave Act] and Shared Leave; review of medical accommodations and possible solutions; Just Cause and complex investigations; participation on union communication committees; and work as a trained PREA [Prison Rape Elimination Act] investigator. You further indicate that your position provides training and presentations to large and small groups on the performance evaluation process; position descriptions; informal employee sessions; supervisor success skills; conflict resolution; layoffs; and new employee orientation (Exhibit 2, page 2).

You also provided specific examples of work assignments including advising appointing authority and supervisor on disciplinary actions such as poor performance and employee conduct; fact finding and strategizing on possible solutions related to just cause issues; working with reasonable accommodations and offering solutions; working with employees and executive staff on layoff procedures; analyzing and reviewing PFDs; conducting training and presentations; acting as a liaison on labor issues; and supervising one HRCA staff member (Exhibit A-10).

In summary, the duties you describe on the PRR include the following (Exhibit 2, page 2):

45%

- Independently develop and implement expert-level strategies to address the most complex cases of staff misconduct and inappropriate behavior in the workplace while adhering to rules, CBAs, and policies. Utilize Just Cause standards and recommend levels of discipline.

30%

- Supervision of staff (one HRCA 2 position).

25%

- Independently provide expert-level consultation and advice to executive staff regarding all levels of employee grievances. Independently research applicable rules and other solutions to mitigate agency risk and defensible decisions.

Your supervisor at the time, Ms. Elksnitis, agreed the PRR accurately reflected the work you perform. However, she also clarified, in part, the following:

. . . Ben is expected to (and does) inform and consult with the HR manager. More sensitive and/or challenging issues are handled in collaboration with or by the HR manager. He also works collaboratively with internal subject matter experts within DOC HR for complex issues. . . .

In addition, Ms. Bergstrom wrote, in part, the following:

. . . this position provides [senior-level] advice and consultation on all HR matters in Section 4 not just those that are 'most complex and sensitive.' . . . there is ongoing consultation with the HR Manager (HRM). On the most complex and sensitive issues, the HRC would always consult with the HRM, and possibly with the Regional HRM, about how to respond or about what advice to give the appointing authority.

Ms. Bergstrom reiterated these points during the during the Director's review conference, emphasizing that the most complex and sensitive decisions are always done in consultation with higher level HR managers or HR Consultants who serve as specialists, such as a Labor Relations Specialist.

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.

The **Human Resource Consultant 4** (HRC 4) has been defined as "an assigned professional expert in one or more functional human resource areas; or supervises professional or other human resource staff members."

HRC 4 distinguishing characteristics include the following:

Professional expert or supervisory level. Assignments require application of knowledge and expertise to make decisions on complicated issues. These assignments often require proactive intervention and have wide or precedent setting impact. Provides advice and consultation to organization management, lower level professional staff, and peers. Handles or oversees the organization's

most sensitive, complex, or critical human resource issues. Provides advice and guidance and/or supervises professional or other staff members.

Your position does not serve as an assigned expert in one or more HR areas. Although you are very knowledgeable in all areas of HR with expertise in multiple areas, your position serves as a generalist providing professional level consultation and advice to your assigned customers. The HR Regional Manager (your second-line supervisor) indicated that highly complex, sensitive HR issues are performed in consultation with HR managers or experts assigned to a specialty units within Headquarters. Therefore, the most complex issues involve a higher level review by an HR manager or expert.

Although you do supervise an HRCA 2 paraprofessional position, supervision of lower level HR staff occurs at both the HRC 3 and HRC 4 levels. Further, I recognize there is some overlap between the work described in the HRC 3 and HRC 4 class specifications, and both require a high degree of HR knowledge and independent work. The primary distinction is between expert and senior level work.

The State Human Resources Glossary of Classification Terms provides further guidance on the definition of expert as follows:

Expert - Within the context of the class series, has the highest level of responsibility and extensive knowledge based on research and experience in a specific area. Resolves the most complex, critical, or precedent-setting issues that arise. Positions act as a resource and provide guidance on specialized technical issues. Although an employee may be considered by their peers as an expert or "go-to" person at any level, for purposes of allocation, the term is typically applied to an employee in a higher class level who has gained expertise through progression in the series.

Your position has not been assigned the highest level of responsibility. Although you work face to face with your assigned customers, the most complex and critical issues are handled with some oversight by an HR manager or specialist, depending on the specific issue. During the Director's review conference, we discussed a number of examples you provided (Exhibit A-10). While some may reach aspects of higher level work, Ms. Bergstrom or another HR manager or specialist had some involvement with these issues the majority of the time. Therefore, when considering the overall scope and level of responsibility assigned to your position, the HRC 4 is not the best fit.

The **Human Resource Consultant 3** (HRC 3) definition reads as follows:

Serves as senior level human resource consultant/advisor. Independently performs professional level human resource assignments in one or more areas of the human resource function such as classification, compensation, benefits, recruitment and selection, affirmative action and equal employment opportunity, reasonable accommodation, training, organizational development, and/or labor relations.

HRC 3 distinguishing characteristics include the following:

This is the senior professional level. Under general direction, independently provides administrative direction and counsel to clients regarding a broad range of human resource management issues which require the application of professional judgment in the analysis of complex human resource and operational relationships. Responsibilities include resolving complex human resource issues having broad potential impact. Issues may involve competing interests, multiple clients, conflicting rules or practices, a range of possible solutions or other elements that contribute to complexity.

In addition, the State Human Resources Glossary of Classification Terms defines senior as follows:

Senior - The performance of work requiring the consistent application of advanced knowledge and requiring a skilled and experienced practitioner to function independently. Senior-level work includes devising methods and processes to resolve complex or difficult issues that have broad potential impact. These issues typically involve competing interests, multiple clients, conflicting rules or practices, a range of possible solutions, or other elements that contribute to complexity. The senior-level has full authority to plan, prioritize, and handle all duties within an assigned area of responsibility. Senior-level employees require little supervision and their work is not typically checked by others.

Your position fits within the definition and distinguishing characteristics of the HRC 3 classification. You are a skilled, experienced professional level HR consultant and apply advanced knowledge and expertise to your assignments. You work independently under general direction and resolve complex human resource issues. You perform a full range of HR services, including senior-level advice, consultation and guidance to managers and supervisors. However, DOC's HR Division is structured in a way that assigns expert-level positions to a specialty unit, and those experts along with regional HR managers get involved with the most complex and critical issues.

In addition, the HRC 3 typical work examples include supervision of "paraprofessional, or lower level professional staff." Although typical work statements are not strictly allocating criteria, they lend support to the level of work anticipated by a particular class. In total, the HRC 3 classification best encompasses the scope of work and level of responsibility assigned to your position.

I recognize there has been turnover with your supervisor's position and that you and the other senior HR Consultant have ensured that operations run smoothly in your assigned areas. The Personnel Resources Board has previously determined the following:

Most positions within the civil service system occasionally perform duties that appear in more than one classification. However, 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, although you included position descriptions from other positions, the Board has previously addressed this issue as follows:

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).

It is clear the work you have performed at DOC has been highly valued, and your HR managers indicated that your performance has been exemplary. However, a position's allocation is not based on an evaluation 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 classes. In this case, the majority of work assigned to your position aligns with the HRC 3 level. Therefore, your position is properly allocated to the Human Resource Consultant 3 (HRC 3) classification.

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 4th 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: Tina Cooley, DOC
Lisa Skriletz, SHR

Enclosure: List of Exhibits

BEN McDONALD v. DOC
ALLO-12-046

A. Ben McDonald Exhibits

1. Letter requesting Director's Review received August 3, 2013 (1 page)
2. July 26, 2012 DOC allocation determination letter (7 pages)
3. September 2012 letter outlining argument and submitting exhibits (2 pages)

(Other Position Descriptions outside scope – informational only)

4. HRC4 Position Description – WSDOT (5 pages)
5. HRC4 Position Description – LNI (4 pages)
6. HRC4 Position Description – DNR (5 pages)
7. HRC4 Position Description – HCA (6 pages)
8. HRC4 Position Description – DSHS (7 pages)
9. HRC4 Position Description – DOC (8 pages)
10. Work Assignments Jan-June 2012 (3 pages)

B. DOC Exhibits

1. September 5, 2012 letter submitting exhibits
2. June 11, 2012 Position Review Request (8 pages)
3. August 2011 Position Description Form (7 pages)
4. HR Organizational Chart
5. June 2012 emails with incumbent concerning review (5 pages)
6. June 2012 emails with HR Manager concerning review (3 pages)
7. July 5, 2012 Mr. McDonald's response to work review emails (1 page)
8. July 5, 2012 HR Manager's response to work review emails (2 pages)
9. HRC 3 classification specification
10. HRC 4 classification specification
11. July 26, 2012 DOC allocation determination letter (7 pages)