



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
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September 27, 2013

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

FROM: Kris Brophy, SPHR
Director's Review Program Investigator

SUBJECT: Judy Bales v. Department of Social and Health Services (DSHS)
Allocation Review Request ALLO-13-014

Director's Determination

This position review was based on the work performed for the six-month period prior to July 17, 2012, the date DSHS Human Resources Division (DSHS-HRD) received the request for a position review of Ms. Bales' position. As the Director's Review Investigator, I carefully considered all of the documentation in the file, the exhibits, and the verbal comments provided by both parties during the review telephone conference. Based on my review and analysis of Ms. Bales' assigned duties and responsibilities, I conclude her position is properly allocated to the Vocational Rehabilitation Counselor 2 classification.

Background

On July 17, 2012, DSHS-HRD received Ms. Bales' Position Review Request (PRR) form asking that her position be reallocated to the Vocational Rehabilitation Counselor 3 classification (Exhibit B-3). A revised Position Description form was also completed by her supervisor and signed by Ms. Bales on July 17, 2012 (Exhibit B-3).

On January 4, 2013 DSHS, notified Ms. Bales that her position was properly allocated as a Vocational Rehabilitation Counselor 2 (Exhibit B-1).

On January 30, 2013, the State HR Division, OFM, received Ms. Bales' request for a Director's review of the DSHS allocation determination (Exhibit A-1).

On July 31, 2013, I conducted a Director's review conference with the parties. Present during the conference was Judy Bales; Phyllis Alexander, Council Representative, WFSE; Sherri Clarke, Classification Manager, DSHS; Suzanne Monteiro, Vocational Rehabilitation Supervisor, DSHS; Andres Aguirre, Assistant Director, Division of Vocational Rehabilitation (DVR); and Lester Dickson, Classification & Compensation Specialist.

Both parties submitted additional information during the review process. The information was reviewed by the parties and Mr. Dickson submitted a final response on August 31, 2013. All of this information has been added to the record and incorporated as exhibits to the file. The

exhibit list has been modified to reflect these changes (Exhibits A-6 and A-7, and exhibits B-8 and B-9 respectively).

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. Bales provides specialized professional caseload management and direct delivery of vocational service functions including client evaluation, counseling, and guidance and other required VR services to achieve successful employment outcomes to individuals who are deaf, hearing impaired and/or experience other types of disabilities.

Ms. Bales' supervisor during the review period was Suzanne Monteiro, Vocational Rehabilitation Supervisor. Ms. Bales' second-level supervisor is Mr. Ron Falberg, Area 2 Manager. Ms. Bales completed a Position Review Request Form (Exhibit B-2) to document her duties and responsibilities.

Ms. Bales describes her assigned duties and responsibilities on the PRR as follows:

60% Requires fluency in ASL to communicate with individuals who are deaf or hearing impaired. Performs the lead role as an area counselor for the deaf and hearing impaired (RCD) and provides expert consultation to other vocational rehabilitation staff. Acts as the primary liaison with school programs where deaf and hearing impaired students attend and community organizations that serve individuals who are deaf or hearing impaired. Provides training to communities and organizations on how to communicate and interact with individuals who are deaf or hearing impaired as well as to understand deaf culture.

Manages and provides rehabilitation counseling and other required VR services to individuals who are deaf, hearing impaired and/or experience other types of disabilities to achieve successful employment outcomes, including:

- Conducting initial interviews and counsels applicants on the availability of VR services for which they may be eligible
- Coordinates and synthesizes necessary medical, psychological, social, educational, vocational and financial information to use for eligibility determination and VR counseling
- Determines applicant eligibility for VR services
- Provides VR counseling to assist the customer to develop their IPE and make progress throughout the rehabilitation process, approves and guides

implementation of the IPE and monitors progress toward completion of the employment goal. Approves IPE's and any amendments to the IPE.

- Determines customer's need and provides or arranges vocational rehabilitation services that may include VR guidance and counseling, vocational assessment, transition from high school to work, job training, placement and retention, medical restoration, assistive technology, independent living, benefits planning, supported employment, or any other VR services required to achieve and maintain the employment goal
- Manages expenditures within an allotment of case service funds and only authorizes funds necessary for diagnostic evaluation of the customer or required for the implementation of VR services identified on the IPE
- Assists customer in identifying and using comparable benefits that may be available to them for obtaining required VR services designated on the IPE
- Develops an effective VR counseling relationship that is responsive to the unique needs of each customer and necessary to achieve the employment goal
- Maintains regular contact with customers and moves cases through the rehabilitation process to cause closure
- Directly assists customers who conduct self-directed job searches, including referral to WorkSource
- Uses the Service Tracking and Reporting System (STARS) to conduct all facets of case management, maintain an accurate and current record of VR services, document case progress, including the key decisions and activities that determine the course and outcome of the case.

25% As the Lead she is the primary consultant and trainer to other Vocational Rehabilitation Counselors regarding deaf/hearing impaired services including reading audiology reports to determine eligibility, purchasing hearing aids or other listening devices, and/or supporting decisions made in higher education facilities for accommodation needs.

Maintains close working relationships with a variety of federal, state and local organizations that jointly serve DVR customers to assure effective case coordination, including high schools and post-secondary institutions or higher education. Conduct outreach in the community to share information regarding DVR services. Provides information and consultation to employers to assist them in employing and retaining DVR customers.

5% Attends quarterly statewide Regional Counselor for the Deaf meetings to remain updated on services, education, or other current issues.

5% Informs customers of the Client Assistance Program, mediation, and the formal appeal process when individuals disagree with VR service delivery decisions; Participates in staff training programs, and other duties as assigned.

Ms. Monteiro fully supports reallocating Ms. Bales' position to the VRC 3 class and indicates in the Supervisor Review section of the PRR (Exhibit B-2), that Ms. Bales' description of her assigned duties and responsibilities is accurate and complete.

In her comments, Ms. Monteiro states:

Judy has been working as the Lead Rehabilitation Counselor for the Deaf (RCD) for well over 2 years. Although she works with customers who have other disabilities, her current caseload consists of over half with diagnoses of deafness or hearing impaired. In addition to her serving transition students who have deafness, or hearing impaired, she also is the liaison for one school district for all students who are transitioning from school to work. As the lead, Judy provides excellent consultation and training to the other staff with regards to hearing impairments and deafness including: understanding audiologist evaluations and various accommodations/assistive technologies. She acts as the RCD for this area and is required to attend the statewide quarterly meetings to work on issues, identify training needs and share information on an agency wide level. Judy has taken on a lead role in the deaf community. She has grown in her skill and abilities, is able to handle and turn around difficult situations into positive outcomes and is respected by her customers.

Summary of Ms. Bales' Perspective

Ms. Bales asserts the majority of her time is spent managing a specialized case load and performing the extra duties associated with serving as the Regional Counselor for the Deaf.

Ms. Bales asserts she performs the functions of a Lead Vocational Rehabilitation Counselor by serving as a lead counselor for a specialized deaf and hard of hearing caseload with associated community liaison responsibilities within her assigned area. She asserts she is the primary deaf and hard of hearing specialist for her work unit and serves as the Regional Counselor for the Deaf. She asserts she has conducted training sessions with supervisors and managers, and also provides mentoring, training and case management consulting to other VRC's within the work unit who serve customers who are deaf or hard of hearing.

Ms. Bales also asserts that twenty percent of her time is spent performing lead duties in the absence of her supervisor and the unit's VRC 3 lead position. During the review conference Ms. Bales indicated that she covers the office every Friday in the absence of the VRC 3 lead and her supervisor, Ms. Monteiro. In her comments in exhibit A-7, Ms. Bales states that this includes providing advice, guidance, counseling and direction for case management to the North Unit regional offices, arranging and providing internal office coverage when Ms. Monteiro is out of the office, determining when specific deaf or hard of hearing cases need to be referred or transferred to her based on client need, acting as the outreach rehabilitation liaison consultant to employers and others, instructing new staff on office procedures, and providing information and topics for unit staff meetings.

In total, Ms. Bales asserts her position should be reallocated to the VRC 3 class.

Summary of DSHS's Reasoning

DSHS acknowledges Ms. Bales serves a specialized caseload for the Deaf and hard of hearing. DSHS acknowledges Ms. Bales has responsibility for providing her unit and other DVR staff with expert consultation, advice, guidance, counseling, and direction regarding service delivery to that population which includes her responsibility for serving as the RCD for the North Unit regional offices including Arlington, Everett and Everett WorkSource. However, DSHS asserts her position does not have designated lead responsibility over other staff as required by the

definition for the VRC 3 class. DSHS asserts there are a number of VRC 2's and VRC 3's within DVR that serve specialized caseloads (e.g. High School Transition, Deaf, Developmental Disabilities, Mental Health); however, DSHS indicates only those who have designated lead duties over staff in addition to having specialized caseload responsibilities are allocated to the VRC 3 level.

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.

Comparison of Duties to Vocational Rehabilitation Counselor 3

The Definition for this class states:

Serves as a lead Rehabilitation Counselor and meets one of the following criteria:

1. Serves as the lead counselor and assists supervisor with office management, personnel and office coverage; and is designated to act in the absence of the supervisor;
2. is the designated lead counselor in an office, which may include out-stationed offices, implementing time limited, federally funded projects;
3. is the lead counselor without an on-site supervisor in an office located away from the main office;
4. is the lead counselor for a specialized caseload or community liaison responsibilities; or ...

[Emphasis added]

The Distinguishing Characteristics for this class states:

This is the classification providing direct case management services with agency clients as well as serving as a designated lead vocational rehabilitation counselor within DSHS or the Department of Services for the Blind.

The State HR "*Glossary of Classification Terms*" defines "lead" as: "An employee who performs the same or similar duties as other employees in his/her work group and has the designated responsibility to regularly assign, instruct, and check the work of those employees on an ongoing basis."

Ms. Bales' position does not include lead responsibility for members of her work unit as required by the definition which states: "Serves as a lead Rehabilitation Counselor and meets one of the following criteria." [Emphasis added]. Ms. Bales does not lead the work of other staff. A review of Ms. Bales' PRR and the revised PDF indicates her position does not have designated responsibility to regularly assign, instruct, and check the work of other employees on an ongoing basis. The scope of Ms. Bales' responsibility involves providing occasional work direction and technical information and assistance to other staff members in the absence of her supervisor or the designated VRC 3 lead position within the unit. Ms. Bales stated during the review conference that she provides coverage to the office approximately twenty percent of her time.

However, Ms. Bales does not have the designated responsibility to regularly assign, instruct, or check the work of others on an ongoing basis as a primary focus of her position.

Further, although the Typical Work examples do not form the basis for an allocation, they lend support to the level and scope of work performed by that class. The typical work statements for this class include the following:

... Advises area management on client service issues area-wide;

As a lead counselor provides advice, guidance, counseling, and direction to all regional counselor staff regarding case management, specialized project implementations, and services...;

Approves funding and assigns cases to other counselors;

Provides orientation and basic vocational rehabilitation procedural training for new staff;

Arranges for immediate unit coverage;

Helps develop agendas, conducts unit meetings, and provides input into counselor evaluation;

Provides case management services to other counselors with complex or challenging cases;

Acts as the outreach rehabilitation liaison consultant to employers, educational institutions, and community organizations;

It is undisputed that Ms. Bales provides expert consultation, advice, guidance, counseling, and technical direction regarding assistive devices, communication techniques, and diagnostic information for deaf and hard of hearing clients. She advises her supervisor and manager on deaf and hard of hearing client service issues area-wide. She provides advice, guidance, counseling, and technical direction to all vocational rehabilitation counselor staff within her unit and regarding case management, specialized project implementations, and services for deaf and hard of hearing clients.

While Ms. Bales serves a caseload of specialized cases consisting of deaf and hard of hearing clients, provides occasional training and mentoring to staff, and performs a variety of associated outreach liaison and consulting activities to employers, educational institutions, and community organizations, (which are often performed in conjunction with her assigned caseload); her position does not lead other staff as required by the Definition and Distinguishing Characteristics of the VRC 3 class. Additionally, Ms. Bales does not approve funding and assign cases to other counselors. She does not arrange for unit coverage, develop agendas, conduct unit meetings, and provide input into counselor evaluations. These duties fall to the unit's VCR 3 lead and/or her supervisor, Ms. Monteiro.

Because Ms. Bales' position does not have delegated responsibility for leading other staff, allocating her position to the Vocational Rehabilitation Counselor 3 class is not appropriate.

This is supported in Tossini v. Department of Social and Health Services, PRB Case No. R-Allo-11-013 (2012), the Personnel Resource Board held that, "...Appellant's position is not been

designated as a lead vocational rehabilitation counselor. We recognize that Appellant provides guidance to other VRCs and answers their questions and that she is considered the go-to person for issues pertaining to transition issues. However, these responsibilities do not fit within the definition of a "lead." Appellant is not designated on-going responsibility to regularly assign work, instruct other VRCs or check their work."

For these reasons, Ms. Bales' position should not be allocated to the Vocational Rehabilitation Counselor 3 class.

Comparison of Duties to Vocational Rehabilitation Counselor 2

The Definition for this class states:

Provides case management of a client caseload consisting of varying degrees of disabling conditions. Incumbents determine their own work methods within Federal and agency policies and provide needed vocational rehabilitation services.

The Distinguishing Characteristics for this class state:

This is professional journey-level classification. Incumbents make independent case decisions involving the preparation of rehabilitation plans and encumber the authorization of funds for case services. Exercises independent judgment in assisting eligible clients in the selection of vocational goals and the services leading to employment. Independently contracts and authorizes expenditures for State/Federal funds with clients or vendors to provide varying degrees of individually planned diagnostic and/or rehabilitative services.

The typical work statements for this class provide for participating in workshops and conferences as follows:

...Participates in statewide, regional, and unit staff meetings, classes, workshops, agency training opportunities, professional workshops, and conferences...

The majority of Ms. Bales' duties, and the overall scope and level of responsibility of her position as a whole, meet the definition and distinguishing characteristics for this class. Her duties include conducting initial client intake and interviews; gathering information in determining eligibility assessments, plans, case management, and performing fiscal monitoring functions. Ms. Bales participates in, and provides training to staff, clients and the public regarding transition services during internal or professional workshops.

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of *best fit*. The Board referenced Allegrì v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

A position's allocation is not a reflection of performance or an individual's ability to perform higher-level work. It is clear Ms. Bales is a highly-committed and dedicated member of the DVR

staff. However, a position's allocation is based on the majority of work assigned to the position and how that work best aligns with the available job classifications. Because Ms. Bales does not have designated lead responsibility over staff with her unit, the Vocational Rehabilitation Counselor 2 classification is the best fit. Ms. Bales' position should remain allocated to the VCR 2 level 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 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: Judy Bales, DVR
Phyllis Alexander, WFSE
Lester Dickson, DSHS
Lisa Skriletz, SHRD

Enclosure: List of Exhibits

Judy Bales v. Social and Health Services
ALLO-13-014

List of Exhibits

A. Judy Bales Exhibits

1. Director's Review Form for Judy Bales received by State HR Division January 30, 2013 (3 pages)
2. Allocation determination letter from Lester Dickson to Judy Bales dated January 4, 2013 (11 pages)
3. Document describing examples of work titled, "Judy Bales - Exhibits of Office Leadership" (3 pages)
4. Performance and Development Plan for Judy Bales, "PDP Part A: Planning" for review period 10/01/2011 to 9/30/2012 (3 pages)
5. Performance and Development Plan for Judy Bales, "PDP Part B: Review" for period 10/01/2011 to 11/13/12 (4 pages)
6. Supervisor Comments from Suzanne Monteiro with attached exhibits:

Exhibit A

1. IDVR Shared Documents Screen
2. PDF's 2009 for VRC 2; VRC 3 Lead; VRC 3 Mental Health (specialized); VRC 3 Deaf and Hard of Hearing

Exhibit B

1. Class Specification for VRC 2 and VRC 3

Exhibit C

1. PDF approved for VRC 3 Specialized case-load – Developmental Disabilities (Gates)
2. PDF approved for reallocation from VRC 2 to VRC 3 specialized caseload for Deafness and Hard of Hearing (Jim McGinley) 2011
3. Organizational chart for Bellingham Unit (shows 5 leads)

Exhibit D

1. Director's Determination for Adrianna Tossini

Exhibit E: Copies of Emails

- 1 – 13 Emails as listed in exhibit A-6
7. Position Statement from Judy Bales titled, "Director's Review Hearing – July 31st, 2013"

B. DSHS Exhibits

1. Allocation determination letter from Lester Dickson to Judy Bales dated January 4, 2013 (11 pages)
2. Position Review Request form for Judy Bales received by DSHS on July 17, 2012 (7 pages)
3. Revised Position Description form for Judy Bales received by DSHS on July 17, 2012 (7 pages)
4. Vocational Rehabilitation Area II Organizational Chart
5. DSHS copy of Vocational Rehabilitation Counselor 2 Class Specification
6. DSHS copy of Vocational Rehabilitation Counselor 3 Class Specification
7. Copy of Director's Review decision, Adriana Tossini v. DSHS, ALLO-10-031 dated August 17, 2011 (8 pages)
8. Email from Lester Dickson to Karen Wilcox dated July 30, 2013 enclosing email string with Ms. Bales' supervisor regarding job duties. (4 pages)
9. Final email response from Lester Dickson to Kris Brophy dated August 26, 2013 regarding additional exhibits submitted by Ms. Bales during the review conference

C. Class Specifications

1. State HR Class Specification for Vocational Rehabilitation Counselor 2, (353L)
2. State HR Class Specification for Vocational Rehabilitation Counselor 3, (353M)