



**STATE OF WASHINGTON**  
**OFFICE OF FINANCIAL MANAGEMENT**

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM  
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June 10, 2015

TO: Franklin Plaistowe  
Rules and Appeals Section Chief

FROM: Lucy Macneil  
Director's Review Program Investigator

SUBJECT: Jennifer Brascher v DSHS  
Allocation Review No. ALLO-14-112

**Director's Determination**

This position review was based on the work performed for the six-month period prior to April 18, 2014, the date DSHS Classification and Compensation Unit (DSHS Class/Comp) received Ms. Brascher's request for a position review. As the Director's Review Investigator, I carefully considered all of the documentation submitted by both parties in this matter. In addition, I considered the guidance provided in prior Director's review determinations and in Personnel Resources Board appeal decisions. Based on my review and analysis of the assigned duties and responsibilities, I conclude the position should be allocated to the Program Specialist 3 classification.

**Background**

On February 18, 2014, DSHS Class/Comp received Ms. Brascher's Position Review Request (PRR) form, requesting that her Program Specialist 3 position be reallocated to Program Specialist 4. (Exhibit B-4). The form was signed by Ms. Brascher on April 2, 2014, and by her supervisor, Robert McClintock, Quality Assurance Administrator, on April 17, 2014.

DSHS Class/Comp conducted a position review and notified Ms. Brascher on October 31, 2014 that her position was allocated to the Social and Health Program Consultant 2 class effective November 16, 2014 (Exhibit B-1).

On November 25, 2014, Ms. Brascher filed a request for review with State HR Director's Review Program.

**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. Brascher works in the Business Analysis & Unit in the Division of Residential Care Services in the Aging and Long Term Support Administration (ALTSA RCS) at DSHS.

Ms. Brascher describes her duties in the PRR submitted for reallocation as follows:

This specialized position exercises delegated decision-making authority in coordination of the statewide AFH (Adult Family Homes), ALF (Assisted Living Facilities), and NH (Nursing Home) licensing programs. Using independent judgment, this position interprets, reviews and makes recommendations for licensure or denial of licensure. In addition, this position plays an important role in the following: Processing of Medicaid contract requests and terminations, coordination of Construction Review Services projects, and processing license updates which include bed capacity increases, bed capacity decreases, changes in specialty designations, renewals, and other license-related changes. (Exhibit A-2)

Ms. Brascher's job duties are described in the PRR as follows:

- 35% Review & evaluate complex AFH, ALF, NH and SL (Supported Living) application packets
- 15% Attend meetings & advise on BAAU applications, processes, policies, etc.
- 10% Advise & provide technical assistance to others regarding license issues
- 10% Develop strategies/action plans for BAAU processes & influence policy

Ms. Brascher's remaining duties include processing Medicaid contract requests and terminations (5%); processing licensed bed capacity increases and decreases (5%); printing yearly NH license renewals for approximately 239 facilities (5%); researching contracting issues, license issues, EIN (Employer Identification Number) issues, other issues (5%); enter, update, and modify databases (5%); and process Department of Health/Construction Review packets (5%).

### **Supervisor's Comments**

Ms. Brascher reports to Loida Baniqued, Quality Assurance Administrator, who in turn reports to Carl Walters II, Director RCS Division. At the time Ms. Brascher filed the PRR, her supervisor was Robert McClintock, who was replaced by Ms. Baniqued in June, 2014.

Mr. McClintock completed the Supervisor's Portion of the PRR. Mr. McClintock agreed that the information provided by Ms. Brascher in the PRR is accurate and complete regarding Ms. Brascher's position and duties and decision making authority. Mr. McClintock disagreed with

Ms. Brascher's assessment that her position should be classified as a Program Specialist 4 (PS 4) because she does not have management responsibilities at the program or organization-wide level. (Exhibit B-4).

Ms. Brascher believes that Mr. McClintock's assessment should be ignored because:

"Bob McClintock's comments were due to retaliation against me. There was a circumstance taking place in RCS at the time that involved myself, Bob and upper-level management at RCS. An investigation was filed..." Exhibit A-10)

### ***Summary of Ms. Brascher's Perspective***

In her PRR submitted on April 2, 2014 and in her Request for Director's Review (DRR), Ms. Brascher stated that her duties are best described by the Program Specialist 4 classification. When she submitted her exhibits for the review, Ms. Brascher indicated that Program Specialist 5 is the appropriate classification for her duties.

Ms. Brascher's duties have changed significantly since her Position Description Form was completed in February, 2008. In December, 2012, the supervisor position was eliminated in Ms. Brascher's unit and she and a co-worker took on some of the duties of the eliminated position. Prior to December 2012, Ms. Brascher and her co-worker did not have the authority to make final decisions related to facility licenses or to input final licensing decisions into department databases. Since the restructure, Ms. Brascher and her co-worker make the final decision on most applications, and only complex files are referred to the Application Review Committee for a final decision. Ms. Brascher and her co-worker work without direct supervisor oversight, making decisions on a daily basis regarding how to meet deadlines and complete tasks.

### ***Summary of DSHS's Perspective***

Mr. Dickson reviewed the Program Specialist series (PS2, PS3, PS4) and the Social & Health Program Consultant 2 classification. He stated:

. . . Your position exists to receive, review, process, and approve or deny application requests for initial or change of ownership from applicants and operators of long term care facilities. . . You may approve licensing of such facilities statewide, however, your position do [sic] not have management responsibility for the licensing program.

Because your position conduct [sic] licensure activities the Social and Health Program Consultant 2 is the best fit class. (Exhibit B-1)

### **Comparison of Duties**

When comparing the assignment of work and level of responsibility to the available class specifications, the Class Series Concept (if one exists) followed by the 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 that class.

## **Classifications Reviewed**

### **Comparison of Duties to *Social and Health Program Consultant 2***

**Definition:** Independently develop, administer, and/or monitor social, financial, or health services programs or the program policies and procedures for use by staff or service vendors; or develop plans for monitoring service delivery; or develop, implement, monitor and provide statewide program consultation and/or technical assistance to staff, community or providers to enhance the delivery of services; or serves as a licenser of day care centers.

**Distinguishing Characteristics:** Some positions in this class may perform one of the following functions a majority of the time, provided that the duties identified in the Definition are also included in the work assignment:

- develop, implement and monitor grants and/or service contracts;
- liaison and public relations;
- draft or analyze proposed legislation and determine fiscal impact;
- conduct program audits and on-site inspections;
- review findings of hearings;
- research, analyze and interpret State and Federal regulations and/or legislation; or develop, implement, direct and monitor a designated project or projects;
- licensure of day care centers.

In his determination, Mr. Dickson allocated Ms. Brascher's position to the SHPC 2 classification based on Alvarez v. Olympic College, **PRB No. R-ALLO 08-013 (2008)** which states:

When there is a class that specifically includes a particular assignment and there is a general classification which could also apply to the position, the position should be allocated to the classification that specifically includes the position [See Mikitik.v. Dept's of Wildlife and Personnel, PAB No. A88-021 (1989)]

Incumbents in the SHPC 2 classification "independently develop, administer, and/or monitor social, financial or health services programs....**OR** serve as a licenser of day care centers." (*Emphasis added*)

Serving as a licenser is a specific assignment which is addressed both in the Definition and Distinguishing Characteristics of the SHPC 2 classification, but the classification specifically refers to licensure of day care centers, not licensure of Adult Family Homes (AFH), Assisted Living Facilities (ALF), Nursing Homes (NH) and Supported Living (SL). The SHPC 2 classification does not meet the primary allocating criteria of this class of meeting the "particular assignment" test required by Alvarez v. Olympic College cited above.

### **Comparison of Duties to *Program Specialist Series***

The Class Series Concept for this class states:

Positions in this series coordinate discrete, specialized programs consisting of specific components and tasks that are unique to a particular subject and are separate and distinguished from the main body of an organization. Positions coordinate program services and resources; act as a program liaison and provide consultation to program participants and outside entities regarding functions of the program; interpret, review and apply program specific policies, procedures and regulations; assess program needs; and develop courses of action to carry out program activities. Program coordination also requires performance of tasks and application of knowledge unique to the program and not transferable or applicable to other areas of the organization.

Examples of program areas may include, but are not limited to: business enterprises, fund raising, volunteer services, community resources, election administration and certification, juvenile delinquency prevention, recreational education and safety, energy education, aeronautic operations and safety, student housing, financial aid, and registration.

The State HR ***Glossary of Classification Terms*** defines "Program" as follows:

A specialized area with specific complex components and tasks that distinguish it from other programs (or the main body of an organization). A program is specific to a particular subject and has a specific mission, goals, and objectives. A program typically has an identifiable funding source and separate budget code.

The specific components and specialized tasks involve interpretation of policies, procedures and regulations, budget coordination/administration, and independent functioning. Typically requires public contact relating specifically to program subject matter, clients, and participants.

Duties are not of a general support nature transferable from one program to another. Performance of clerical duties is in support of an incumbent's performance of specialized tasks. Independent performance of these duties usually requires at least a six-month training period.

Allocation to the "Program" series requires an assignment of work that is unique and specific to a particular program and not work that is specifically described by another existing class specification. If there is a class that encompasses the body of work, allocation to the specific class must take primary consideration. Allocation to a "Program" class should only occur when there are no other viable options for allocation.

The scope of the licensing activities and related functions performed by Ms. Brascher meet the definition of a program. These specific duties are not described by any other classification. Ms.

Brascher works in a specialized area with specific complex components. Licensing long-term care facilities is a specialized area with specific complex components.

The licensing work involves interpretation of regulations, and independent functioning, as well as public contact relating specifically to licensing issues, clients and participants. The responsibility for review of applications and licensing of long-term care facilities is the responsibility of the Business Analysis and Application Unit and is not performed by other units of DSHS's Residential Care Services Division.

Ms. Brascher's duties are not of a general support nature transferable from one program to another. The focus and scope of the activities are not transferable or applicable to other units. She operates independently. Her tasks involve interpretation of policies, procedures and regulation and public contact relating to program subject matter. Ms. Brascher does not have responsibility for budget coordination/administration.

### **Comparison of Duties to *Program Specialist (PS) 3, 4, and 5***

The Definition of the **Program Specialist 5** states:

Positions at this level work under administrative direction, have organization-wide program management responsibilities, are recognized as the program expert and typically supervise lower-level professional program staff. For programs with statewide impact, incumbents are experts who manage two or more components of the program. Program components are comprised of specialized tasks (e.g., reservations, administration, and budget coordination) within a specialty program. Incumbents administer, oversee, and direct all program activities and advise public entities and higher level administrative staff on aspects of the program or make decisions of major significance that may affect the organization as a whole. Incumbents manage program activities affecting an essential service within the organization or activities with statewide impact. Incumbents perform a wide scope of complex duties and responsibilities in the management of a program, exercise independent judgment, have delegated decision-making authority and typically have delegated budgetary authority. Programs include but are not limited to boating, recreational safety and motorized usage programs; statewide energy programs; and delinquency prevention programs.

Program Specialist 5's work under administrative direction, have organization-wide program management responsibilities, are recognized as the program expert and typically supervise lower-level professional program staff.

The Definition of the **Program Specialist 4** states:

Positions at this level work under administrative direction, and have organization-wide program management responsibilities, and are recognized as program specialists. For programs with statewide impact, incumbents are specialists who manage two or more components of the program. Incumbents administer, oversee, and direct all program activities and advise public entities and higher

level administrative staff of the program components. Program components are comprised of specialized tasks (e.g., reservations, administration, and budget coordination) within a specialty program. Incumbents provide and coordinate program activities affecting an essential service within the organization or activities with statewide impact. Incumbents perform a wide scope of complex duties and responsibilities in the management of a program, exercise independent judgment, and have delegated decision-making authority. Programs include but are not limited to, salmon, marine and shell fish enhancement programs; boating, concession, or winter recreation programs; missing children's clearinghouse; and fund-raising programs which include prospect identification, endowment campaigns, annual funds, direct mail marketing and membership development.

Program Specialist 4's work under administrative direction, have organization-wide program responsibilities, and are recognized as program specialists.

The Definition of the **Program Specialist 3** states:

Positions at this level work under general direction and typically have organization-wide program responsibility. For programs with statewide impact, incumbents are specialists who manage one component or assist higher levels in two or more components of the program. Programs include but are not limited to voter registration programs; boating, concession, or winter recreation programs; minority and women's business enterprise programs; and aeronautics programs. Program components are comprised of specialized tasks (e.g., reservations, administration, and budget coordination) within a specialty program. Incumbents assist higher-level staff by coordinating all aspects of program services, providing technical assistance and specialized, consultation to program participants, staff and outside entities, and recommending resolution for complex problems and issues related to the program. Incumbents assess program participants' needs and develop specialized services and training unique to the program and are responsive to the needs of participants.

Program Specialist 3's work under general direction, have program responsibility, and are specialists. They coordinate all aspects of program services, provide technical assistance and specialized consultation to program participants, staff, and outside entities, and recommend resolution for complex problems and issues related to the program.

To determine the classification that best fits Ms. Brascher's duties, it is necessary to look at the difference in the level and nature of work performed and the level of supervision required.

Incumbents in the Program Specialist 5 classification are recognized as *program experts*.

The State HR ***Glossary of Classification Terms*** defines "Expert" as:

***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.

Ms. Brascher acts as a resource and provides guidance on precedent-setting issues, but she does not resolve the most complex, critical, or precedent-setting issues that arise. She refers the most complex licensing decisions to a committee of higher level staff in the unit. Her position does not meet the scope and level of responsibility required by the Program Specialist 5 classification.

Incumbents in the Program Specialist 3 and 4 classifications are described as *specialists*.

The State HR ***Glossary of Classification Terms*** defines "Specialist" as:

***Specialist*** - Duties involve intensive application of knowledge and skills in a specific segment of an occupational area.

Ms. Brascher functions as a specialist in her unit. While the level of work performed by Program Specialist 3's and 4's is not specifically stated, the work fits the description of **Senior** as stated in the State HR ***Glossary of Classification Terms***:

**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.

Addressing the "Supervision Required" for a particular classification, the State HR ***Glossary of Classification Terms*** states:

*Supervision required* is determined by the following:

- Amount of higher-level oversight the employee receives.
- Latitude the employee has in determining which work methods and priorities to apply.
- Scope of decision-making authority delegated to the employee.
- Extent to which the employee's completed assignments are reviewed.

Incumbents in the Program Specialist 4 and Program Specialist 5 classifications work under *administrative direction*. Incumbents in the Program Specialist 3 classification work under *general direction*.

The State HR ***Glossary of Classification Terms*** defines "Administrative Direction" as

- Employee works independently within the scope and context of rules, regulations, and employer objectives.
- Employee independently plans, designs and carries out programs, projects and studies in accordance with broad policy statements or legal requirements.
- Employee exercises independent decision-making authority for determining work objectives and goals to be accomplished.
- Completed work is reviewed for compliance with laws and regulations and adherence to program goals, objectives, budgetary limitations, and general employer policies.

"General direction" is defined as

- Employee independently performs all assignments using knowledge of established policies and work objectives.
- Employee plans and organizes the work and assists in determining priorities and deadlines. May deviate from standard work methods, guidelines or procedures in order to meet work objectives.
- Employee exercises independent decision-making authority and discretion to decide which work methods to use, tasks to perform and procedures to follow to meet work objectives.
- Completed work is reviewed for effectiveness in producing expected results.

Ms. Brascher's level of supervision is best described as working under general direction. Ms. Brascher independently performs her assignments using knowledge of established policies and work objectives. She plans and organizes her work and exercises independent decision-making authority and discretion to decide which work methods to use, tasks to perform and procedures to follow to meet work objectives. She does not exercise independent decision-making authority to determine work objectives or independently plan, design and carry out the licensing program.

Based on the above analysis of the nature and level of work performed and the level of supervision required for her position, Ms. Brascher is a specialist who works at a senior level under general direction in carrying out her work. She works without direct supervisor oversight, making decisions on a daily basis regarding how to meet deadlines and complete tasks. The majority of her work involves processing licensing applications and renewals. Ms. Brascher makes final decisions on the majority of applications, but complex files are referred to the Application Review Committee for final decisions. Her level of responsibility aligns closely with the Program Specialist 3 classification.

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. See Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

In total, the Program Specialist 3 classification is the best fit overall for the majority of the duties assigned to Ms. Brascher's position.

### **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 PO Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the RAAD Building, 128 10th Avenue SW, Olympia, Washington. The main telephone number is (360) 407-4101, and the fax number is (360) 586-4694.

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

c: Jennifer Brascher  
Lester Dickson, Class and Comp Specialist, DSHS  
Scott Smriga, WFSE

Enclosure: Exhibit List

**Jennifer Brascher v DSHS**  
ALLO-14-112

A. Jennifer Brascher Exhibits

1. Request for Director's Review
2. Position Review Request
3. OFM Letter From Karen Wilcox dated December 3, 2014 regarding error
4. Position Description Form for Jennifer Brascher – Position VM48, dated February 2008
5. Statement regarding incorrect items in Position Description Form for Jennifer Brascher
6. Email from Joyce Stockwell dated November 20, 2012 dismissing BAAU Manager
7. WMS Recruitment Opportunity: BAAU Manager with Opening Date of May 3, 2010
8. Statement regarding duties listed in WMS position for BAAU manager
9. Page one of HR final determination letter dated October 31, 2014 and written by Lester Dickson. Reference #4—Comments made by Mr. McClintock on April 17, 2014
10. Statement disputing comments made by Mr. McClintock on April 17, 2014
11. Page two of HR final determination letter dated October 31, 2014 and written by Lester Dickson. Reference #6—Discussion with your current supervisor Loida Baniqued
12. Statement disputing discussion with current supervisor Loida Baniqued
13. Page two of HR final determination letter dated October 31, 2014 and written by Lester Dickson. Reference paragraph beginning with—Allocations are made based upon majority of time concept...
14. Statement regarding work duties performed majority of time (51% or more) and change in duties/being assigned higher level work for the majority of time
15. Page ten of HR final determination letter dated October 31, 2014 and written by Lester Dickson. Reference top two paragraphs beginning with definition for the SHPC 2 class - Independently develop... and including SHPC Distinguishing Characteristics
16. Statement disputing information provided by Lester Dickson in paragraphs listed above
17. Class Specification for Program Specialist 5

18. Documentation showing meetings attended by BAAU staff
19. Documentation showing duties performed by BAAU staff
20. Documentation showing reports and data/metrics created or provided by BAAU staff

B. DSHS Exhibits

1. Allocation determination letter
2. VM48 Position Description
3. Organization Chart – February 2008
4. Position Review Request
5. Organization Chart – April 2014
6. Addendum to PRR
7. Desk Audit Report – September 2014
8. Class Spec – Program Specialist 2 – 107I
9. Class Spec – Program Specialist 3 – 107J
10. Class Spec – Program Specialist 4 – 107K
11. Class Spec – Social & Health Program Consultant 2 – 349F

C. Class Specifications

1. Class Spec – Social & Health Program Consultant 2 – 349F
2. Class Spec – Program Specialist 3 – 107J
3. Class Spec – Program Specialist 4 – 107K
4. Class Spec – Program Specialist 5 – 107L