BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

BRUCE BRONOSKE & MICHELLE SINGER, Appellants, vs. DEPARTMENT OF HEALTH, Respondent.	)	CASE NO. R-ALLO-10-011 & R-ALLO-10-012 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. These appeals came before the Personnel Resources Board, LAURA ANDERSON, Chair; DJ MARK, Vice Chair; and JOSEPH PINZONE, Member, for a hearing on Appellants exceptions to the director's determination dated April 14, 2010. The hearing was held at the office of the Personnel Resources Board in Olympia, Washington, on August 4, 2010.

Appearances. Appellants Bruce Bronoske and Michelle Singer were present and represented by Kathy Andruss, Classification Director, for the Washington Federation of State Employees (WFSE). Respondent Department of Health (DOH) was represented by Robert Kowalski, Human Resources Consultant.

Background. Appellants are employed by DOH as a Hearing Schedulers. On April 7, 2009, Appellants submitted Position Review Requests (PRR) asking DOH to reallocate their positions to the Health Services Consultant 1 classification. By letter dated August 12, 2009, Respondent determined that Appellants' positions were properly allocated to the Hearings Scheduler classification.

On August 27, 2009, Appellants filed requests for director's review of DOH's allocation determination. In their requests for review, Appellants asked that their positions be reallocated to the Health Services Consultant 1 classification. By letter dated April 14, 2010, the director's designee determined that Appellants' positions were properly allocated to the Hearings Scheduler

classification. On May 14, 2010, Appellants filed exceptions to the director's determination. Appellants' exceptions are the subject of this proceeding.

Appellants work in the Adjudicative Clerks Office (ACO) within the Health Professions Section of the Health Systems Quality Assurance Division (HSQA). Their positions support the adjudication and data bank reporting services related to adjudicative functions and other (ACO) activities to all divisions in (DOH). Appellants' duties also support the adjudication processes related to Secretary-regulated activities and for Board/Commission-regulated professions. In addition, Appellants positions require knowledge of the legal process under the Administrative Procedures Act and support the adjudication processing of decisions for issuing decisions related to mandatory suspensions of health profession licenses for nonpayment of child support or student loans. Appellants other duties and responsibilities include;

- prepare and serve all legal documents related to the disciplinary process of health care providers;
- schedule hearings and prepare necessary documents;
- evaluate orders to determine that they are in compliance with both Uniform Disciplinary and Administrative Procedures Acts;
- receive record and maintain all original pleadings, documents and exhibits in the adjudicative record from the initiating document through final case disposition.

Summary of Appellants' Arguments. In summary, Appellants contend that they perform and meet the functions for the Health Services Consultant 1. Appellants also contend that the Hearings Scheduler class does not address the full scope of duties performed by Appellants. Appellants argue that they promote and assist with evaluation of public health and adjudicative services. They assert that they monitor, maintain and update specialized health databases by entering orders and other information in the HSQA's Integrated Licensing and Regulatory System (IRLS) to track adjudicative timeliness for all adjudicative processes. Appellants further argue that they ensure quality, compliance and standards of a health program by reporting compliance abuse through the Federal

Healthcare Integrity and Protection Data Bank (HIDPT). Appellants assert that through the duties they perform they are conducting public education outreach activities to improve public health by analyzing health data against disciplinary criteria as well as evaluating all health care provider credentials to determine if status needs to be changed, revoked, suspended or denied. Appellants argue that they meet the definition of the HSC 1 classification and believe that it is a better fit based on work performed. Appellants also assert another person in their unit performs the same duties they perform yet that person is classified as a HSC 1.

Summary of Respondent's Arguments. Respondent recognizes that Appellants perform various adjudicative duties in addition to those described by the Hearings Scheduler class. Nonetheless, Respondent argues that the director's designee was correct in his assessment of Appellants' positions and determination that their positions are correctly allocated to the Hearings Scheduler classification. Respondent asserts that Appellants support a centralized adjudicative services unit within DOH, not a health program. Respondent asserts Appellants have primary responsibility for scheduling and coordinating contested case hearings for formal disciplinary related actions taken toward health care providers and other adjudicative or regulatory proceedings within the agency. Respondent argues that the support Appellants provide in maintaining; monitoring and updating information in the database is adjudicative or regulatory in nature and is not specialized health databases. Further, the duties the Appellants perform educating and providing outreach to customers are limited to adjudicative processes and do not involve providing education outreach related to public health. Therefore, Respondent contends that on a best fit basis Appellants' positions meet the Hearings Scheduler classification.

Primary Issue. Whether the director's determination that Appellants positions are properly allocated to the Hearings Scheduler classification should be affirmed.

Relevant Classifications. Hearings Scheduler, class code 425K; Health Services Consultant 1, class code 283H.

Decision of the Board. 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. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), the Personnel Resources 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). Therefore, the allocation or misallocation of other HSC1 positions at DOH is not a determining factor in the appropriate allocation of Appellants position.

The following standards, in descending order, are the primary considerations in allocating positions:

- Class series concept (if one exists).
- Definition or basic function of the class.
- Distinguishing characteristics of a class.
- Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question.

The Health Services Consultant series describes positions that provide professional health

services related consultation, assistance, and management regarding health programs.

The definition of the Health Services Consultant 1 class states:

> This is the entry level of the professional Health Services Consultant series. Positions must perform one or more of the following functions within the Department of Health;
>
> - Maintains, monitors and updates specialized health databases regarding client eligibility, hospital patient data, vital statistics, enrollment, demographics and utilization.
> - Promotes and assists with the evaluation of public health programs effectiveness, compliance, and standards.
> - Conducts public education outreach and/or prevention activities to improve public health.
> - Maintains and distributes vaccine immunization biological and supplies.

There are no distinguishing characteristics for Health Services Consultant 1 class.

When comparing the assignments of work and the level of responsibility to the available class specifications, the class series concept (if one exists) followed by definitition and distinguishing characteristics are primary considerations. While examples of the typical work identified in class specifications do not form the basis for an allocation, they lend support to the work envisioned within the classification. While some of work described in the HSC 1 class specifications contains similar aspects of the work that Appellants perform, their positions are more consistent with the definition, distinguishing characteristics and typical work statements of the Hearings Scheduler class. Appellants work, is regulatory in nature and is done in direct support of the agency's adjudicative functions. Appellants' primary functions are to provide professional adjudicative support to all divisions within the agency for disciplinary-related actions taken toward health care providers as well as supporting other adjudicative or regulatory proceedings. In this case, Appellants have not met their burden of proving the work assigned to their positions meets the level or breadth of impact intended by the HSC 1 classification.

The definition of the Hearings Scheduler classification states:

> Responsible for scheduling and coordinating contested case hearings as defined in the Administrative Procedures Act.

The Hearing Scheduler distinguishing characteristics state:

> Positions allocated to this class are assigned the responsibility for the scheduling process to include: (1) identification of issues and interested parties; (2) review of case to ensure presence of complete documentation before scheduling; obtain missing information; (3) determination of need for any type of hearing/notice form; (4) prepare hearing calendars for and coordinate with Administrative Law Judge(s); (5) assignment or adjustment of hearing date and place; determine time needed for hearing based on type of issues and number of parties; coordinate scheduling services (e.g., interested parties, attorneys, witnesses, subpoena request, court reporter, hearing space, postponements, withdrawals); (6) maintenance of tracking system. Incumbents must demonstrate independence of judgment in all steps of the scheduling process; be accountable for efficient use of professional staff time; use knowledge of applicable administrative law and legal staff' practice to respond to inquiries on pending cases; or supervise a support staff involved in aspects of the scheduling process.

The majority of Appellants' duties and responsibilities meet the intent of the the distinguishing characteristics of the Hearings Scheduler classification. Appellants' positions have primary responsibility for scheduling and coordinating contested case hearings for formal disciplinary-related actions taken towards health care providers as well as supporting other adjudicative or regulatory proceedings within DOH.

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 this case, on a best fit basis, the Hearings Scheduler classification best encompasses the overall scope of work and level of responsibility assigned to Appellants' positions.

In a hearing on exceptions, the appellants have the burden of proof. WAC 357-52-110. Appellants have failed to meet their burden of proof.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Bruce Bronoske and Michelle Singer is denied and the director's determination dated April 14, 2010, is affirmed.

DATED this _____ day of _____, 2010.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Vice Chair

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JOSEPH PINZONE, Member

I DISSENT.

Using a best fit analysis, I would find that Appellants' positions best fit within the HSC 1 classification.

In Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998), the Personnel Appeals Board (predecessor to this Board) addressed the concept of best fit. The PAB 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.

The Personnel Resources Board has continued to apply the best fit concept when appropriate. In this case, I believe the scope of Appellants' duties, and overall responsibilities are best described by the HSC 1 definition.

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LAURA ANDERSON, Chair