BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

HEIDI BRALEY, Appellant, vs. LIQUOR CONTROL BOARD, Respondent.	CASE NO. R-ALLO-14-009 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. Pursuant to WAC 357-52-100, this appeal was heard by the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair, on Appellant's exceptions to the Director's determination dated August 20, 2014. The hearing was held on December 4, 2014. SUSAN MILLER, Member, reviewed the record, including the file, exhibits, and the entire recorded proceedings, and participated in the decision in this matter.

Appearances. Appellant Heidi Braley was present and represented herself *pro se*. Beverley Burdette, Labor Relations/Operations Manager, represented Respondent Liquor Control Board (LCB).

Background. On July 3, 2013, LCB conducted a management initiated position review of Appellant's Program Specialist (PS4) 4 position. By letter dated October 4, 2013, Respondent determined that Appellant's position should be reallocated to the Licensing Specialist 3 (LS3) classification.

On October 18, 2013, the Office of the State Human Resources received Appellant's request for a director's review of LCB's allocation determination. By letter dated August 20, 2014, the director's designee determined that Appellant's position was properly allocated to the Licensing Specialist 3 classification.

On September 16, 2014, Appellant filed exceptions to the director's designee's determination. Appellant's exceptions are the subject of this proceeding.

Appellant works in the Manufacturers, Importers and Wholesalers (MIW) unit of the LCB Licensing division. Appellant plans and directs the functions of a team of licensing specialists and a customer service specialist who perform a variety of licensing activities. Appellant performs specialized technical and administrative licensing tasks and serves as the unit's expert providing information regarding both retail and non-retail rules and regulations to staff, license applicants, the public, federal governmental officials, attorneys and others on technical matters involving applicable statutes, regulations, laws, policies and procedures.

Summary of Appellant's Arguments. Appellant explains that her position had been allocated to the Washington Management Service (WMS) Band 2 level but it was reallocated to a PS4. Subsequently, LCB reallocated her position to the LS3 classification even though her duties and level of responsibilities had not changed. Appellant acknowledges that some of her duties and responsibilities are similar to other LS3 positions at LCB but asserts that in addition, she performs higher level, more complex duties and responsibilities than other positions. Appellant contends that the Position Description Form (PDF) used for her position audit does not accurately reflect her duties and that she signed the form under protest. She argues that she had an oral understanding with her supervisor that the PDF would be revisited and revised to accurately reflect the duties she performs and the percentage of time she performs them. Appellant asserts that unlike other LS3 positions, she drafts issue papers for management review, gives presentations to outside organizations and stakeholders, responds to questions from internal and external customers, responds to legislative requests, and deals with licensing, labeling and advertising issues with manufacturers, producers, wholesalers and retailers both within and out of the state. Appellant contends that her duties are unique, specialized and consistent with the PS4 classification.

/ / / / /

Summary of Respondent's Arguments. Respondent argues that when reviewing Appellant's PDF, they realized that she performed duties similar to those performed by other LS3 positions. This realization prompted the position audit of Appellant's position and resulted in the reallocation to the LS3 classification. Respondent contends that Appellant is a subject matter expert, directs the functions of her team, makes approval decisions, reviews floor plans, monitors timelines, conducts special investigations and attends meetings which is work performed by LS3 positions. Respondent recognizes that Appellant's duties as the Oracle administrator are unique to her position but argues that these duties are administrative in nature and account for only 5% of Appellant's time. Respondent further recognizes that the functions associated with labeling and advertising tasks are voluminous but asserts that the functions and tasks are clerical in nature and are not complex. Respondent argues that Appellant's position is correctly allocated to the LS3 classification.

Primary Issue. Whether the director's determination that Appellant's position is properly allocated to the Licensing Specialist 3 classification should be affirmed.

Relevant Classifications. Licensing Specialist 3, class code 458O, and Program Specialist 4, class code 107K.

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).

Both Appellant and Respondent compared Appellant's duties and responsibilities to the duties and responsibilities of other LS3 positions. However, while 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. Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996). As stated above, position review is a comparison of the duties and responsibilities of a position to the classification specifications, not a comparison to other similarly situated positions.

Appellant challenges the accuracy of the PDF used is this case. WAC 357-13-030 requires employers to maintain a current position description for each position. WAC 357-13-045 states that "[t]he manager of the position is responsible for completing the position description form. If the position is filled, input from the incumbent is recommended." In this case, management revised Appellant's position description without incorporating input from Appellant. While input from the incumbent is recommended, it is not required.

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

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

While typical work statements provide guidance on the level of work typically found in the various classes within the series, typical work statements are not allocating criteria.

The class series concept for the Program Specialist series 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 definition for Program Specialist 4 class 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 on 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.

The licensing, labeling and advertising functions performed by the MIW do not fit within the definition of a program. While the subject matter of the MIW unit may be unique, the actual work performed is not. The functions of the unit are not separate and discrete from the work performed by other units. And, the activities performed by staff are transferable to other units. Appellant has not established that her position is responsible for two or more program components that are comprised of specialized tasks as required for allocation to the PS4 level. We concur with the director's designee that the MIW does not meet the definition of a program and that Appellant's position does not meet the definition of the Program Specialist 4 classification.

/ / / / /

The definition for the Licensing Specialist 3 class states:

> Supervises, plans, directs, and coordinates functions of a unit or team of liquor or gambling license specialists.
>
> OR
>
> In the Liquor Control Board (LCB):
>
> Within the liquor program: During the licensing application process examine and analyze floor plans submitted by applicants with authority to approve or disapprove these plans. Reviews and approves Alcohol Operating plans for Sports Entertainment Facilities (SEF) and renewal licenses for Amateur SEF licenses. Evaluates Bankruptcy and Receivership document and issues Special Permission Letters to court-appointed Trustees and Receivers. Evaluates and investigates "Threshold Decision" and Master License types. Trains new employees.
>
> . . . .

The majority of the duties and responsibilities of Appellant's position are encompassed by the definition of the LS3 classification. We recognize that Appellant is the sole staff person responsible for Oracle; however, the duties she performs in support of the system are administrative in nature and do not represent a significant portion of her overall duties and responsibilities. The majority of Appellant's duties and responsibilities involve acting as the subject matter expert for MIW, supervising and directing the functions of her team, making approval decisions, reviewing floor plans, monitoring timelines, conducting special investigations, attending meetings and providing information to higher level management. Appellant's assigned duties and responsibilities are consistent with the requirements of the LS3 definition to supervise, plan, direct, and coordinate the functions of a unit of liquor license specialists

This decision is based on the duties and responsibilities of Appellant's position as described in the PDF completed by her supervisor. If Appellant feels that the position description does not adequately describe her current duties, she may be able to request a review of her current duties and responsibilities in accordance with LCB's procedures and the applicable civil service rules.

In a hearing on exceptions, the Appellant has the burden of proof. WAC 357-52-110. Appellant has failed to meet her burden of proof.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Heidi Braley is denied and the director's determination dated August 20, 2014, is affirmed.

DATED this _____ day of _____, 2014.

WASHINGTON PERSONNEL RESOURCES BOARD

_____

NANCY HOLLAND YOUNG, Chair

_____

SUSAN MILLER, Member