BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

PAMELA COFFELL, PATTY INGERSOLL, ROXI BOOLEN, MIGUEL GUZMAN, ALFREDO HERRERA, BOBBY CRAIG, JOEL DUMESLE, RAY MAGANA, REBECCA WITHROW, CHARLES FRENCH III, BERNA HABERMAN, LINDA CEARLEY, SALLY WILKINS, GAGE LOCKHART, AND APRIL LICKAR, Appellants, vs. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent.	CASES NO. R-ALLO-15-023, R-ALLO-15-024, R-ALLO-15-025, R-ALLO-15-026, R-ALLO-15-027, R-ALLO-15-028, R-ALLO-15-029, R-ALLO-15-030, R-ALLO-15-031, R-ALLO-15-032, R-ALLO-15-033, R-ALLO-15-034, R-ALLO-15-035, R-ALLO-15-036, R-ALLO-15-037 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair, and VICKY BOWDISH, Member. The hearing was held on February 11, 2016, at Capitol Court, Olympia, WA.

Appearances. Appellants Pamela Coffell and Rebecca Withrow were present and represented by Sherri-Ann Burke, Labor Advocate, Washington Federation of State Employees (WFSE) and Teresa Parsons, Human Resource Specialist, WFSE. Respondent Department of Social and Health Services (DSHS) was represented by Dorothy Hibbard, Classification and Compensation Specialist.

Background. Appellants are Social Service Specialists 3 (SSS 3) in the Aging and Long Term Support Administration (ALTSA). Appellants submitted position review requests (PRRs) to the DSHS Human Resources (HR) Classification and Compensation Unit on December 9, 2014, December 12, 2014, February 3, 2015, and February 6, 2015, requesting reallocation to the Attorney General's Office (AGO) Investigator/Analyst job class.

By letter dated April 2, 2015, DSHS notified Appellants that their positions were not reallocated to AGO Investigator/Analysts and remained as SSS 3s. On April 20, 2015, Appellants submitted requests to OFM State HR for a director's review of DSHS's determination.

By letter dated August 26, 2015, the director's designee determined that Appellants' positions should remain allocated to the SSS 3 job class.

On September 21, 2015, Appellants filed timely exceptions to the director's determination. In their exceptions, Appellants indicated the scope of their work best fits the duties of the AGO Investigator/Analyst job class. Appellant's exceptions are the subject of this proceeding.

As summarized in the director's review, Appellants are responsible to investigate allegations of abuse, neglect, abandonment, and/or exploitation of vulnerable adults that fall under the jurisdiction of RCW 74.34 within ALTSA's Adult Protective Services Program. Appellants are assigned investigations and must apply their skill as social workers to determine if the adults are in a vulnerable state and be able to connect them with appropriate community services. Some of the duties and responsibilities associated with the investigations include conducting interviews with the alleged victims and the alleged perpetrators; interview collateral sources and develop other sources of information; conduct research, analysis and audits to obtain relevant information and documentation; and interpret medical and financial documents, functional assessments, psychological evaluations and legal court documents.

Summary of Appellant's Arguments.

Appellants take exception to the director's decision that their work does not fully reach the breadth and scope of diversity or overall depth and level of complexity of the AGO Investigator/Analyst or Investigator 3 classifications.

Appellants assert their primary function is to perform complex investigative work and their social work is limited to determining the vulnerability of adults and making referrals to other agencies and/or services if needed.

Appellants also take exception to the director's decision that their work is narrowly focused. Appellants contend they handle financial exploitation cases which involve auditing and analyzing financial records. Appellants state they conduct interviews, gather information, research and analyze data and participate in court proceedings on a wide variety of adult abuse cases including financial exploitation, self-neglect and abuse. Many of their cases, maintain Appellants, involve working closely with the Attorney General's Office and law enforcement. Appellants contend they must determine how to get the evidence they need and participate in court hearings to substantiate the evidence they gathered. As such, Appellants assert the complexity of their investigations go beyond the work of the SSS 3 job class and the majority of work falls more in line with the AGO Investigator/Analyst classification.

Summary of Respondent's Arguments.

Respondent does not believe the duties of the Appellants' positions meet the intent of the AGO Investigator/Analyst class since the class series works for the Attorney General's Office and also offers legal services. Respondent contends the AGO Investigator/Analyst has a broader spectrum including torts and Medicaid fraud, while the SSS 3s are limited to vulnerable adults.

Respondent recognizes that Appellants investigate complex civil cases, but the AGO Investigator/Analyst and Investigator 2 series does not make allowances for social services work, an essential function to their job. While Respondent agrees that investigations are the primary focus of Appellants job, the investigations are in support of social services. Additionally, maintains Respondent, the director's designee was correct in allocating the positions to an agency specific job class rather than a generic one, per the board's ruling in PAB No. ALLO-03-0014 (2003).

Primary Issue. Whether the director's determination should be affirmed in that Appellants' positions should remain at the SSS 3 job class.

Relevant Classifications. Social Services Specialist 3; AGO Investigator/Analyst; Investigator 2; Investigator 3.

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).

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

We have carefully reviewed the documentation submitted during the director's review and considered the arguments presented by the parties at the hearing before the Board. Allocating criteria consist of the class specification's class series concept (if one exists), the definition and the distinguishing characteristics. Typical work is not an allocating criterion, but may be used to better understand the definition or distinguishing characteristics.

The Class Series Concept for the AGO Investigator/Analyst:

> This series works in the Office of the Attorney General (AGO). Investigators provide legal services to the state of Washington and its citizens. Positions can be found in a variety of program areas such as Torts, Consumer Protection, Medicaid Fraud, Financial Crimes, Homicide Investigation Tracking System, and The Sexually Violent Predator Program. Positions determine caseload priorities and methodologies and develop information critical to the defense or prosecution of civil or criminal cases held in superior or federal court.

The Class Series Concept for the Investigator series speaks to the majority of duties performed by Appellants:

> Positions in this series conduct civil and/or criminal investigations in a variety of areas including allegations of fraud or collusion among recipients of public assistance or industrial insurance, allegations of fraudulent and/or unfair business and insurance practices, misconduct, and allegations of civil rights violations.
>
> Positions gather facts and develop evidence with responsibility for developing the complete case from the original claim or allegation through preparation for presentation in court or administrative hearing. This includes researching records and case files; gathering and preserving documentary evidence; obtaining statements of fact, depositions, or confessions; obtaining and serving subpoenas to compel the attendance of witnesses or the production of records; conducting field surveillance; obtaining and coordinating the service of search warrants; writing investigative reports, establishing proof of facts and evidence; reviewing the case with private attorneys, assistant attorneys general, or prosecuting attorneys; and testifying in court or other proceedings as necessary.

The testimony and evidence brought forth to the board was clear the bulk of Appellants' work involves thorough and complex investigations such as stated in the AGO Investigator/Analyst job class and the Investigator series. Unlike SSS 3s in other units, Appellants are not assigned cases

to monitor, rather assigned investigations. Testimony indicates that 15% of vulnerable adult investigations involve abuse allegations which must be examined and brought forth for legal solution. This work is different from the work of other SSS 3s in different divisions of DSHS, where Social Workers are assigned cases to inspect and monitor.

The Social Services Specialist class series does not have a Class Series Concept. The definition states:

> Within the Department of Social and Health Services, functions as a lead worker **or sole case manager** in a remote location in either **Aging and Disability Services Administration** or Economic Services Administration; or, performs advanced level of specialized case management in Children's Administration or Aging and Disability Services Administration. **All positions at this level receive little supervision - employees are responsible for devising their own work methods** (emphasis added)**.**

The SSS 3 Distinguishing Characteristics state, in relevant part and with added emphasis:

> This is the specialist level of this series **functioning independently**.
>
> **IN AGING AND DISABILITY SERVICES ADMINISTRATION EITHER:**
>
> a) Serve as the leadworker reporting to an off-site supervisor, or;
>
> b) **In a remote office is solely responsible for the full scope of social services provided in that location;** or
>
> c) Provide one or a combination of the following duties a majority of the time:
>
> - Adult Protective Services
> - Inspection of care
> - Determine the level of nursing care needed by clients
> - Ongoing case management to adults at high risk of institutionalization or to those adults whose need for case management is part of a service plan developed following an adult protective service or investigation

d) License and develop alternate familial resources including duties such as recruitment, providing initial and ongoing training to licensees and staff, provide field response.

…

Consistent with the SSS 3 Distinguishing Characteristics, Appellants function independently and are solely responsible for the full scope of social services provided in their location. An understanding of social services is required to determine if the adults are vulnerable and to connect them with appropriate services. Appellants' work could not be performed without knowledge of social service practices.

While the duties and responsibilities of Appellants' positions are reflected in the AGO Investigator/Analyst, the Investigator series and the SSS 3 job classifications, social services is fundamental to Appellants' responsibilities and neither the AGO Investigator/Analyst or the Investigator series include social services in their class specifications. Therefore, the board agrees with the director's designee to keep the positions at the SSS 3 – the agency specific job class. The board also must consider *PAB No. ALLO-03-0014*, Cerna v. Employment Security Department where it states: "[i}t is not intended for a more generic classification to be used to allocate a position where the duties and responsibilities of the position are more precisely described by a more specific classification." The board must also consider others that have been allocated to specific, rather than general classifications, including *Waldher; Firouzi; Makari; Korndorfer v. Department of Transportation* PRB Nos. R-ALLO-08-026; R-ALLO-09-005; R-ALLO-009-006; and R-ALLO-09-009.

The board finds lack of clarity in the SSS 3 class specification language, "full scope of social services" and "inspection of care," especially in its application to the investigative responsibilities of Appellants in the Adult Protective Services Program. While classification revisions are outside of the Board's jurisdiction, we strongly encourage DSHS to work with Classification and Compensation staff at OFM State HR to either update the SSS 3 class series or create a new job class that more accurately reflects the work performed by Appellants in the Adult Protective Services Program. Undefined phrases should be better explained and language added to show that

the majority of work of the SSS 3s in the Adult Protective Services Program primarily involves complex investigations.

The Board has considered all Appellants' exceptions to the director's determination and finds the duties of this position best fit the definition and distinguishing characteristics of the Social Services Specialist 3.

In a hearing on exceptions, the Appellants have the burden of proof (WAC 357-52-110). Appellants have not met their burden of proof.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Pamela Coffell, Patty Ingersoll, Roxi Boolen, Miguel Guzman, Alfredo Herrera, Bobby Craig, Joel Dumesle, Ray Magana, Rebecca Withrow, Charles French III, Berna Haberman, Linda Cearley, Sally Wilkins, Gage Lockhart, and April Lickar is denied, the director's determination dated August 26, 2015, is upheld and Appellants' positions remain allocated to the Social Services Specialist 3.

DATED this _____ day of _____, 2016.

WASHINGTON PERSONNEL RESOURCES BOARD

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NANCY HOLLAND YOUNG, Chair

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VICKY BOWDISH, Member