BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

MARTIN KOLKMAN, et. al., Appellant, vs. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent.	CASE NO. R-ALLO-17-032, R-ALLO-17-033, R-ALLO-17-034 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, VICKY BOWDISH, Vice Chair, and SUSAN MILLER, Member. The hearing was held on June 20, 2018, at Room 110, Capitol Court, 1110 Capitol Way, in Olympia, WA.

Appearances. Appellant Craig Martin was present by telephone and was the designated spokesperson for Appellants, Martin Kolkman and Robert Moore. Respondent, Department of Social and Health Services (DSHS), was present and represented by Dorothy Hibbard and Jennifer Wagner, both Classification and Compensation Specialists.

Background. On February 16, 2017, Appellants Craig Martin and Martin Kolkman submitted a Position Review Request (PRR) to DSHS Human Resources (HR) requesting reallocation from a Security Guard 1 to a Campus Security Sergeant. Appellant Robert Moore submitted a PRR to DSHS HR on February 16, 2017, requesting reallocation from a Security Guard 1 to a Campus Security Officer. By letter dated June 23, 2017, Lester Dickson, Classification and Compensation Specialist, DSHS HR, notified Appellants their positions were properly allocated to the Security Guard 1 classification.

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On July 17 and 21, 2017, the Office of Financial Management State Human Resources (OFM-SHR) received Appellants' Request for Director Review of DSHS HR's decision.

The Director's Review Specialist conducted a review of Appellants' positons based on written documentation. By letter dated, November 2, 2017, the Director's Review Specialist determined the most appropriate allocation for the Appellants positons was the Security Guard 1 classification.

On November 27, 2017, Appellant filed timely exceptions to the Director's determination.

As summarized by the Director's Designee, Appellants work for DSHS is located at Eastern State Hospital (ESH). Appellants are responsible for patrolling campus grounds and surrounding areas to enforce institutional rules and regulations including local, state and federal statutes. Appellants inspect buildings and grounds for prowlers, fire, property damage and other irregularities. They patrol additional areas outside ESH campus such as the WA State Veterans Cemetery and off-site state pump houses. The Appellants direct and regulate traffic, investigate incidents, administer first aid, gather evidence and locate witnesses. They escort visitors and contractors onto patient wards and living areas, conduct building checks and the opening and closing of the main buildings, veterans' cemetery and pump houses. Appellants Martin and Kolkman conduct field training of all newly hired security officers. This includes, but is not limited to, report writing, campus orientation, officer safety, vehicle checks, surveillance, payroll/time sheet processing, patrol procedures, external yard security duties, and visitor and contractor escorts. The Appellants also maintain key control, vehicle checks, surveillance, patient property movement and external ESH yard security.

Summary of Appellants Arguments. Appellant Martin asserts Supervisor Jeffery McKercher signed off and agreed with the duties listed on the subject PRRs for the Campus Security Officer and Campus Security Sergeant classifications. The Appellant argued the PRR clearly stated the Appellants conduct more than 51% of the duties described in the Campus Security Officer and Campus Security Sergeant classifications on the ESH campus that spans 860 acres with over 41

buildings and structures including two full inpatient hospitals to patrol. The Appellant stated they conduct investigations of non-felony incidents with compliance of law enforcement agencies, they show up to all scenes that occur and conduct preliminary investigations, obtain information for law enforcement, gather witnesses, take statements, provide medical assistance as needed and refer impacted parties to other agencies as needed. The Appellants do not represent local law enforcement agencies; they are usually first on scene and assist law enforcement on scene and through the follow up.

The Appellants argued case law *Candace Alvarez v. Olympic College,* PRB Case No. R-ALLO-08-012 (2008) clearly shows that if an employee is performing duties in both classifications at a 51% rate or more, (referencing Security Guard 1 and Campus Security Officer classifications), the employee will be given the higher of the two classifications. Appellant also argued, in case law *Roy Salsberry v. WA State Parks and Rec Commission,* PRB Case No. R-R-ALLO-06-013 (2006) and further affirmation by *Christine Larson v. Dep't Social & Health Services,* PRB Case No. R-ALLO-15-028 (2015) put into context the "Best Fit Basis" under level, scope and diversity of the overall duties and responsibilities of a position. The Appellant asserts the Campus Security Officer and Campus Security Sergeant are the best fit.

The Appellant argued that case law *Washington Public Employees Association v. State of Washington,* Case No. 31824-5-II, Wn. App. 2d p.__ (2005) clearly defines the States obligation to employees referencing, "Equal Pay for Equal Work," which is the basis for the Classification and Compensation Program for Washington State Employees. The Appellant stated there is overwhelming evidence justifying the shift lead in their current classification. The Appellants also argued that the full time Security Guards at Western State Hospital (WSH) are Security Guard 2's and the shift leads are Security Guard 3's. Based on this, ESH should mirror WSH as they should be entitled to the same rank and file per classification at a minimum.

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Appellant Martin stated that he and Appellant Kolkman have been conducting shift lead and training officer duties since August 31, 2016. The Appellants to date have trained and supervised eight security personnel to his shift and currently supervises two permanent employees full time. They train new employees on day to day activities, set up a five-day field training program, evaluate the employees during training, show them what needs to be done, test them on knowledge and abilities, give them orientation of the campus, teach them how to use any of the computer system and provide the employees with keys to access things as needed. The Appellants assert they make decisions on behalf of the supervisor, Mr. McKercher, when he is absent. Mr. McKercher only works day shift and is not present on evening shifts or the night shifts, which are the Appellants' shifts; therefore, they make decisions on Mr. McKercher's behalf. The Appellants do not conduct evaluations on employees beyond the training period, Mr. McKercher handles all evaluations for the department.

The Appellants argued that he disagrees with Classification and Compensation in stating "campus" is not a factor in determining a classification of a position. The Appellant stated ESH is designated as a campus and 90% of duties Appellants perform are covered under the Campus Security Officer typical work. The Appellants stated they only perform about 70% of the typical work under Security Guard 1. The Appellants further argued that because he (Martin) leads a shift or squad and trains employees in that shifts or squad, his duties fit within Campus Security Sergeant classification

Summary of Respondent's Arguments. Respondent agrees with the Director's Review Decision that the duties of the Appellant's meet the Security Guard 1 classification. Respondent clarified the signature on the PRR from the supervisor reflects the supervisor agrees with the duties. However, the supervisor does not have the expertise to make the allocation decision. DSHS HR explained similar work occurs within the Security Guard 1, Security Guard 2, and the Campus Security Officer classifications; however, there are differences between the three levels. The Security Guard 1 patrols and inspects the buildings and grounds and enforces rules of behavior. The Security Guard 2 adds the duties of providing protection and security to assigned facilities, buildings and grounds, etc., conducting investigations of non-felony incidents and representing law enforcement in confiscating

and storing contraband. In addition to general security work for Campus Security Officer, this job classification level also enforces laws and ordinances and prevents and investigates crime. The Campus Security Sergeant must supervise a squad or a shift of security personnel. Respondent identified the duties in the PRR's and position descriptions reflect the majority of work performed is best fit within the Security Guard 1. In regards to the shift lead work, Respondent clarified that lead work is defined in the job classifications of positons doing similar work while also leading or training others, it is the same work with additional duties, which does not warrant a higher level of classification.

DSHS HR contests "Equal Pay for Equal Work" does not qualify as the positions are not equal work because there are different levels of the definition for the classifications. In addition, it is not allocating criteria to compare WSH positions to ESH positions because without reviewing the WSH positions DSHS HR would not know if the WSH positions are appropriately allocated. In reference to "campus," Respondent contests that the term "campus" is an allocating factor. The term "campus" is used at institutions like Echo Glen or Rainier School but the security is not campus security at those locations. Campus Security has higher level of affiliation and responsibilities than Security Guard. Respondent addressed historically the Campus Security series are used for college campuses and the Security Guard series are used for institutions and general government.

Primary Issue. Whether the Director's determination should be affirmed and whether Appellants' position should remain at the Security Guard 1 classification.

Relevant Classifications. Security Guard 1, Security Guard 2, Campus Security Officer, Campus Security Sergeant.

Definition of Security Guard 1

Patrols and inspects buildings and grounds and enforces rules of behavior.

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Definition of Security Guard 2

Provides protection and security to assigned facilities, buildings, grounds, and their residents, staff and visitors by patrolling, inspecting and securing property. Conducts investigations of non-felony incidents in compliance with local law enforcement agreement. Represents local law enforcement agency in confiscating and storing contraband, locating witnesses, serving subpoenas, responding to off-campus vehicle accidents and writing reports.

Definition of Campus Security Officer

Perform general duty security work to protect life and property; enforce laws and ordinances, maintain order, and prevent and investigate crime.

Distinguishing Characteristics

Positions allocated to this class have responsibility for enforcing campus regulations and local, state, and federal laws. Incumbents may be required to successfully complete a law enforcement course approved by the Washington State Criminal Justice Training Commission.

Definition of Campus Security Sergeant

Supervise a squad or shift of campus security personnel

Distinguishing Characteristics

Positions allocated to this class perform patrol duties of the security officer, and are responsible for supervising a group of security officers or other security staff.

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))

Allocating criteria consists of the class specification's class series concept (if one exists), the definition and the distinguishing characteristics.. (See *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008)) typical work is not an allocating criterion, but may be used to better understand the definition or distinguishing characteristics. (See *Kristin Mansfield vs. Department of Fish and Wildlife*, PRB Case No. R-ALLO-11-014 (2011))

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

The Board carefully reviewed the documentation submitted during the Director's Review and considered the arguments presented by the parties at the hearing before the Board.

The Security Guard 1 definition specifies incumbents in these positions perform, "Patrols and inspects buildings and grounds and enforces rules of behavior." While during the hearing Appellant indicated that they do not meet the typical work listed on the Security Guard 1 job classification. Typical work statements are not allocating factors; they represent guidelines to determine the type of work that may be performed. As opposed to the definition, an incumbent does not need to meet all typical work statements listed on a job classification. Majority of the Appellants' duties are patrolling and inspecting buildings on the 860-acre property as well as the WA State Veteran's Cemetery and the Pump House located off site. They also enforce rules of behavior by enforcing DSHS and ESH policies and guidelines. They manage crime scenes until law enforcement appears on site to relieve them.

The Board found the Appellants duties do not meet the definition of the Security Guard 2 because the incumbents are required to meet the description, "Provides protection and security to assigned facilities, buildings, grounds, and their residents, staff and visitors by patrolling, inspecting and securing property. Conducts investigations of non-felony incidents in compliance with local law enforcement agreement. Represents local law enforcement agency in confiscating and storing contraband, locating witnesses, serving subpoenas, responding to off-campus vehicle accidents and writing reports." The Appellants do not conduct investigations of non-felony incidents in compliance with local law enforcement agreements. As Appellant Martin stated, they are first on scene until law enforcement arrives, then they assist law enforcement when law enforcement conducts the investigations. The Appellants do not represent a local law enforcement agency in confiscating and storing contraband, locating witnesses, service subpoenas and responding to off-campus accidents. In order for the incumbents to meet this classification they must meet the definition in its entirety.

Nor do the Appellants meet the definition of the Campus Security Officer because first Appellants must meet the description, "perform general duty security work to protect life and property; enforce laws and ordinances, maintain order, and prevent and investigate crime." The Appellants do not meet the definition as they do not enforce laws and ordinances, nor do they investigate crimes. In order to meet the job classification, all of the duties need to be performed to meet the definition, therefore this classification is not appropriate.

The Appellants Martin and Kolkman do not meet the definition of the Campus Security Sergeant which incumbents must, "supervise a squad or shift of campus security personnel." OFM SHR *Glossary of Classification Terms* defines "supervisor" as, "An employee who is assigned responsibility by management to participate in all of the following functions with respect to their subordinate employees: selecting staff, training and development, planning and assignment of work, evaluating performance, resolving grievances and taking corrective action." As stated above, Appellants Martin and Kolkman train staff when initially hired and evaluate employees during training. However, they do not conduct annual performance evaluations, select staff,

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resolve grievances, or take corrective action, therefore they do not meet the definition of the Campus Security Sergeant.

Furthermore, pursuant to *Norton-Nader v. Western Washington University* the hierarchy of allocating criteria begins with the class series concept (should one exist) followed by the class definition and then the distinguishing characteristics of the relevant classifications. The overall duties and level of responsibility assigned to the Appellants' positions fit within the definition of the Security Guard 1 classification. We concur with the Director's Review determination that Appellants positions should remain allocated to the Security Guard 1 classification.

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

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Craig Martin, et. al. is denied and the Appellants' positions remain allocated to the Security Guard 1.

DATED this 28 day of August, 2018.

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NANCY HOLLAND YOUNG, Chair

Vicky Bowdish

VICKY BOWDISH, Vice Chair

Susan L. Miller

SUSAN MILLER, Member

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