BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

THE EVERGREEN STATE COLLEGE, Appellant, vs. TIN DOAN, Respondent.	CASE NO. R-ALLO-17-036 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 August 2, 2018, at Room 110, Capitol Court, 1110 Capitol Way, in Olympia, WA.

Appearances. Appellant The Evergreen State College was represented by Laurel Uznanski, Associate Vice President for Human Resource Services. Also present for the Appellant was Mike Drennan, Interim Director of Facilities. Respondent Tin Doan was not present. Ron Hensley, Labor Advocate from the Washington Federation of State Employees represented the Respondent by submitting a written argument dated July 25, 2018.

Background. On December 13, 2016, Respondent submitted a Position Review Request to TESC Human Resources requesting reallocation to Maintenance Mechanic 3. By memorandum dated January 27, 2017, Appellant TESC notified Respondent that his position was properly allocated to the Maintenance Mechanic 2 classification.

On March 22, 2017, Respondent submitted a Request for Director's Review of TESC's allocation determination to OFM State HR. In the request for review, Respondent asked his position be reallocated to the MM3 classification. By letter dated November 7, 2017, the Director's Designee concluded Respondent's position should be reallocated to MM3.

On December 5, 2017, Appellant filed timely exceptions to the Director's Determination. In their exceptions, Appellant indicated the scope of Respondent's work best fits the duties of the MM2 job class. The Appellant's exceptions are the subject of this proceeding.

TESC HR disagreed with the Director's Determination that the Respondent is a "specialist" in concrete work. TESC also contends that the Respondent is the most relied upon staff member for concrete projects as other facilities staff including other MM2s and MM1s were involved in the concrete work as well. In addition, TESC specified that concrete work is a weather permitting activity and the Respondent's six months' evaluation for his review request was within June 2016 through December 2016, which is when most concrete work would take place. TESC claimed that very little to no concrete work occurs during the rainy season. TESC argued that the projects the Respondent is assigned to are small sidewalk and walkway projects which are lower skill level concrete projects that consists of flat work and would not be considered "specialist level" type of work. Any large complex concrete projects TESC may have are bid out to outside contractors.

Respondent's position is located in the Facilities Services Organization of TESC as a MM2. This position designs, forms and pours structural walls and flatwork for concrete projects. The duties also include planning, preparing and executing a variety of maintenance, remodeling, and construction jobs assigned from work orders such as welding, plumbing, masonry, carpentry, automotive, small engine repair, drywall, painting, electrical, and fabrication. This position assumes maintenance mechanic lead duties if required.

Summary of Appellant's Arguments. Appellant contends that the Director's Designee failed to understand the difference between journey level and specialist. TESC HR contends that the Respondent is a lead worker because he does not instruct and check the work of assigned staff on an ongoing basis. In addition, TESC stated the Respondent is not a senior level worker as he does not devise methods and complex issues that have broad impact. TESC HR argued that while the Respondent may be assigned to a project as a lead over the other MM1 and MM2 positions during those project, the MM1 and MM2 positions in turn can be assigned as a lead on another project and could be the lead of the Respondent.

TESC HR contends that concrete work is 60% of the Respondent's job duties as concrete work is seasonal due to the weather and during rain they will do little to no concrete work. TESC HR further clarifies the concrete work the Respondent is doing is creating sidewalks by breaking and removing old concrete, preparing dirt for concrete, installing wood cribbing from 2x4's and stake, insert the mesh then pours and levels out the concrete. The Appellant argued that the concrete work can be variations in size and can be angled, straight, or sloped, but there is very little deviation of the work, it is flat concrete work that requires low concrete skill level. TESC again argued the flat concrete work does not require intense knowledge and application of skills to do the work. TESC stated there are two other employees who work with the Respondent to conduct the concrete work. TESC also claimed that large concrete projects that meet the bid requirements are required to be contracted to outside contractors.

Summary of Respondent's Arguments. Respondent supports the Director's Review decision of reallocating the position to an MM3 based on the definition of the, "senior, specialist or lead worker level of the series." Respondent alleged majority of work performed is work as a concrete specialist while performing journey-level skilled trades in welding, automotive repair and maintenance, masonry, drywall, carpentry, and heave equipment operation. Respondent further argued the incumbent is working at a senior level conducting lead work as he provides instruction and guidance to other MM2's as the undisputed resident expert in addition to serving as a concrete specialist.

Primary Issue. Whether the director's determination should be affirmed in that Appellant's position should remain at the MM3 job class.

Relevant Classifications. Maintenance Mechanic 2 and Maintenance Mechanic 3.

Maintenance Mechanic Series

Class Series Concept

Positions in this series perform general maintenance, repair, remodeling and construction duties utilizing working knowledge of several related skill fields such as electrical, plumbing, carpentry, welding, painting and machinist work. Incumbents inspect, repair, install and maintain physical facilities, locks and maintain and repair machinery and equipment. Positions may be required to lead or supervise and instruct offenders, inmates or residents in general maintenance activities.

Maintenance Mechanic 2

Definition

This is the journey, working or occupational level of the series. Positions at this level perform a variety of skilled work in the operation, maintenance, repair, remodeling and construction of buildings, grounds, machinery, mechanical facilities and equipment, and hospital facilities, systems and equipment. Incumbents work independently and utilize a general knowledge of several related skill fields such as plumbing, electrical, welding, carpentry, and machinist work.

Maintenance Mechanic 3

Definition

This is the senior, specialist or lead worker level of the series. Positions at this level perform skilled work in more than one trade or craft. Incumbents typically specialize in one trade or craft but

perform journey-level and semi-skilled work in a variety of disciplines. Incumbents perform construction, maintenance, repair and modification of buildings, facilities, mechanical equipment, machinery and specific apparatus and utilize a working knowledge of several related skill fields such as plumbing, electrical, welding, carpentry, and machinist work.

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)).

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

The Appellant asserts the level of concrete work the position performs is not at a specialty level. Per OFM SHR *Glossary of Classification Terms* (April 1, 2017), the following are defined:

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 issued 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.

Specialist

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

Lead

An employee who performs the same or similar duties as the other employees in his/her work group and has the designated responsibility to regularly assign, instruct and check the work of those employees on an ongoing basis.

The Maintenance Mechanic series states that incumbents in these positions perform general maintenance, repair, remodeling and construction duties and they may be required to lead or supervise and instruct on maintenance activities. The Class Series Concept addresses that an incumbent can be a lead worker for this job class series. The Respondent is assigned as a lead worker on specific projects and in exchange other Maintenance staff are assigned as the lead on projects the Respondent assists on as well. The Respondent's duties include general maintenance, repair, construction, and remolding work. All of these duties meet the intent of the Class Series Concept for a Maintenance Mechanic as well as the definition for the MM2.

The MM3 definition states that incumbents of these positions must be a "senior, specialist or lead worker level." The next qualifier for such positions is that incumbents must be specialized in one trade or craft and perform journey-level and semi-skilled work in a variety of disciplines. The

Board found the Respondent's duties do not meet the definition of the MM3 because the Respondent does not devise methods and processes to resolve complex or difficult issues nor is the Respondent given full authority over an assigned area of responsibility. In addition, the Respondent is assigned as a lead on specific projects, however the position is not designated as a lead worker for the Facilities Services Organization and is not regularly assigning, instructing and checking other work on a consistent basis.

In addition, the concrete work performed by the Respondent is not at the complexity to be identified as a specialized trade or craft. The concrete work the Respondent is assigned to are small limited work assignments performed seasonally and consist of flat pour concrete work orders such as sidewalks and walkways, therefore the duties being performed do not meet the intent of the statement, "[I]ncumbents typically specialize in one trade or craft…" Furthermore, any large complex concrete work is contracted out to contractors outside the state system.

As stated in *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 classification. The overall duties and level of responsibility assigned to the Respondent's position fit within the definition of the MM2 classification.

The Board has considered all Appellant's exceptions to the director's determination and finds the Respondent meets both the Class Series Concept and Definition of the MM2 classification.

In a hearing on exceptions, the Appellant has the burden of proof (WAC 357-52-110). Appellant has met his burden of proof.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Appellant is granted and the Director's determination dated November 7, 2017, is overturned.

DATED this 3 day of October, 2018.

WASHINGTON PERSONNEL RESOURCES BOARD

NANCY HOLLAND YOUNG, Chair

VICKY BOWDISH, Vice Chair

SUSAN MILLER, Member