

1 **BEFORE THE PERSONNEL RESOURCES BOARD**
2 **STATE OF WASHINGTON**

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5
6 JOHN HUFF, MELLODY STELL,) CASE NOS. R-ALLO-15-011, R-ALLO-15-012
7 Appellants,)
8 vs.) ORDER OF THE BOARD
9 DEPARTMENT OF TRANSPORTATION,) FOLLOWING HEARING ON
10 Respondent.) EXCEPTIONS TO THE
11) DETERMINATION OF THE DIRECTOR
12)
13)
14)

15 **Hearing on Exceptions.** This appeal came before the Personnel Resources Board, NANCY
16 HOLLAND YOUNG, Chair, and VICKY BOWDISH, Member, for a hearing on Appellants'
17 exceptions to the director's determinations dated May 18, 2015. The hearing was held on July 30,
18 2015.

19
20 **Appearances.** Appellants John Huff and Mellody Stell were present and represented themselves.
21 Also present Appellants manager, Gregory Bell, External Civil Rights Branch (ECRB),
22 Washington State Department of Transportation (WSDOT). Respondent WSDOT was represented
23 by Jennifer Martin, Human Resources Consultant.

24
25 **Background.** Appellants submitted updated Position Description forms (PDF) in September 2013;
26 Ms. Stell requested reallocation to the Transportation Planning Specialist 4 (TPS 4) classification.
27 Mr. Huff requested reallocation to the Transportation Planning Specialist 5 (TPS 5) classification.
28

1 By letter dated April 25, 2014, WSDOT determined that Appellants' positions were properly
2 allocated to the Human Resource Consultant 4 (HRC 4) classification.

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4 In April 2014, Appellants' filed requests for director's reviews of WSDOT's determination. Mr.
5 Huff asked that his positions be reallocated to the TPS 5 classification. Ms. Stell asked that her
6 positions be reallocated to the TPS 4 classification. By letters dated May 18, 2015, the director's
7 designee determined that Appellants' positions are properly allocated to the HRC 4 classification.

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9 On June 11, 2015, Appellants' filed exceptions to the director's determinations. Appellants'
10 exceptions are the subject of this proceeding.

11
12 Appellants' work in the External Civil Rights Branch (ECRB) of the Office of Equal Opportunity
13 (OEO) at WSDOT headquarters. Mr. Huff is the Minority, Women's, and Disadvantaged
14 Business Enterprises (DMWBE) Contract Compliance Supervisor. Ms. Stell is the Northwest
15 Region Equal Employment Officer (EEO) and On the Job Training (OJT) Compliance Officer/SS
16 Coordinator. Appellants report to Gregory Bell, Manager, ECRB. Mr. Bell fully supports the
17 reallocation of Appellants positions.

18
19 Mr. Huff is responsible for development, coordination, goal setting and supervision of statewide
20 Disadvantaged Business Enterprises (DBE) program and Minority and Women's Business
21 Enterprises (MWBE) certification programs for United States Federal Highway Administration
22 (FHWA), Federal Transit Administration (FTA) and Federal Aviation Administration (FAA)
23 federally assisted projects. He provides expert guidance, assistance and interpretation to/for
24 WSDOT planning, design, construction, contracting management, local government, contractors,
25 DMB and MWBE certified firms and other interested parties with regards to WSDOT's
26 Disadvantaged Business Enterprises federally assisted projects. He sets and monitors program
27 objectives and agency position in relation to DBE and DWBE programs. Appellant oversees
28 application/implementation of all of these programs within WSDOT. He ensures compliance with
29 the Code of Federal Regulations (CFR).

1 Ms. Stell serves as the NW Regional EEO Officer, which includes serving as the Tribal
2 Employment and Right's Office (TERO) liaison. Appellant has primary responsibility as the OEO
3 liaison working with all of the federally recognized tribes in conjunction with WSDOT ensuring
4 that the tribes have an opportunity to participate on WSDOT contracts. She performs
5 commercially useful function (CUF) and equal employment opportunity reviews on both prime
6 contractors and DBE subcontractors on construction projects throughout the state, to ensure that
7 the firms are complying with all terms and conditions of their contract. Appellant provides
8 training to staff, management, prime contractors and subcontractors as requested or as deemed
9 necessary by OEO management, to ensure compliance with WSDOT's external civil rights, Title
10 IV responsibilities throughout the State. She provides external civil rights expertise, technical
11 assistance as well as conducting extensive, complex and sensitive investigations of civil rights and
12 contract compliance complaint investigations. Appellant leads OEO's administration of the
13 Federal Training Program and through OJT Program. She works with contractors to assist in
14 processing/approving training programs; processing Apprentice/Training Approval forms;
15 preforms Apprentice/Training interviews, assist the contractor in developing training programs.

16 **Summary of Appellants' Arguments.** Appellants disagree that their positions should be classified
17 under the HRC 4 classification; Appellants explain that the majority of their work is to ensure all
18 State and Federal compliance requirements are being met within their programs. Appellants'
19 contend their work can be best described as utilizing external civil rights programs to ensure agency
20 compliance with Title VI of the Civil Rights Act of 1964. Appellants' argue that their core tasks are
21 responsibilities and functions involving programs that are internally administered to external
22 customers i.e., WSDOT Region and Project Office Personnel, Local Agency personnel, Contractors
23 both Primes and Subcontractors, Consultants and other government agencies at the City, County and
24 State level. Appellants' further argue that the DBE, OJT/SS and TERO programs are associated with
25 highway construction projects and contracting. Appellants' contend that the work they perform is
26 unique, complex comprehensive contract compliance reviews of WSDOT and Highways and Local
27 Programs. Appellants' assert that these programs are administered to stakeholders external to the
28 agency and the action of the program as administered by WSDOT have a direct impact on external

1 stakeholders; not agency personnel. Therefore, Appellants contend that their positions best fit the
2 class series concept and definition of the Transportation Planning Specialist or Management
3 Analyst classification.

4
5 **Summary of Respondent's Arguments.** WSDOT consulted with their assigned State Human
6 Resources analyst regarding Appellants' classifications. In addition to the requested TPS series, the
7 Management Analyst series was also reviewed to determine if it was a better fit. WSDOT argues that
8 Appellants' positions do not meet the full intent or requirements of the TPS class. Respondent
9 asserts that the nature of work required does not fit within the criteria of what is considered planning
10 work, nor the problem areas or disciplines as defined in the TPS class. WSDOT contends TPS
11 perform work relating to specific areas dealing with the transportation system, related to research
12 studies or studies dealing with the transportation system. Which are utilized for the management of
13 an integrated statewide transportation system, and planning areas or problem areas include
14 transportation systems and modes, environmental aspects related to transportation issues, landscape
15 design roadside and site aspects, and transportation landscape architecture, urban and community
16 planning.

17 The primary focus of the Management Analyst series is to analyze management problems, develop
18 strategies, conduct research, formulate recommendations and coordinate long-range planning
19 activities in areas such as budgeting, operations, policy issues, and proposed legislation. The primary
20 focus of Appellants' work is the implementation and administration of their programs ensuring
21 federal compliance, developing and coordinating setting and supervision the programs, monitoring
22 program objectives and agency position. Although research and reporting are components to
23 accomplishing these objectives, they are not the primary focus. This classification does not best
24 describe the work Appellants accomplish.

25
26 WSDOT further argues that Appellants' level and duties accomplished are primarily compliance-
27 based and are encompassed within HRC 4 class, and is considered a professional expert level,
28 with application of knowledge and expertise to make decisions on critical and complicated issues

1 with wide or precedent setting impact, while advising and consulting with internal and external
2 management teams. DOT states that the work Appellants perform is identified in the Human
3 Resource Consultant class series concept through the identification of affirmative action and
4 diversity as examples of professional human resources work.

5 WSDOT contends that based on Appellants' overall duties and responsibilities of their positions
6 continues to be found in the HRC 4 classification series, and that Appellants' positions should
7 remain allocated on a best fit bases to the HRC 4 level of the classification.

8
9 **Primary Issue.** Whether the director's determination that Appellants' positions are properly
10 allocated to the Human Resources Consultants 4 classification should be affirmed.

11
12 **Relevant Classifications.** Transportation Planning Specialist 4, class code 543H, Transportation
13 Planning Specialist 5, class code 543I, Management Analyst 4, class code 109L, Management
14 Analyst 5, class code 109M

15
16 **Decision of the Board.** The purpose of a position review is to determine which classification best
17 describes the overall duties and responsibilities of a position. A position review is neither a
18 measurement of the volume of work performed, nor an evaluation of the expertise with which that
19 work is performed. A position review is a comparison of the duties and responsibilities of a
20 particular position to the available classification specifications. This review results in a
21 determination of the class that best describes the overall duties and responsibilities of the position.

22 *See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).*

23
24 Appellants argue that their positions fit within the TPS classification series or the Management
25 Analyst classification series. WSDOT asserted that the agency considered both series when
26 reviewing Appellants' position. However, when there is a class that specifically includes a
27 particular assignment and there is a general classification that has a definition which could also
28 apply to the position, the position should be allocated to the class that specifically includes the

1 position. *Mikitik v. Dept's of Wildlife and Personnel*, PAB No. A88-021 (1989); see also, *Waldher*
2 *v. Dept. of Transportation*, PRB Case No. R-ALLO-08-026 (2009). In case, the level of duties
3 accomplished is encompassed within the HRC 4 classification

4
5 Appellants' scope of work do not fall within the scope of transportation modes, identified problem
6 areas, or transportation planning disciplines referenced in the TPS 3 class and utilized for all class
7 levels in the series:

8 Modes are rail, water, air, transit, bike and pedestrian, etc.;

9 Problem areas relate to energy, land use, economic development, deregulation of services,
10 modal system integration, environmental regulations, Endangered Species Act,
11 transportation roadside and site aspects, etc.;

12 Disciplines are environmental or urban planning, fisheries, biology, transportation,
13 landscape architecture, engineering, economics, social sciences, etc.;

14 Equal employment opportunity functions performed by Appellants do not align directly with the
15 intent, focus or scope of transportation planning activities identified in the definition and
16 distinguishing characteristics of this class.

17
18 Appellants further argue that very few of current active TPS classified positions meet the criteria
19 by which their reallocation requests were denied. This Board and its predecessor, the Personnel
20 Appeals Board, have addressed this issue numerous times. In *Byrnes v. Dept's of Personnel and*
21 *Corrections*, PRB No. R-ALLO-06-005 (2006), the Board held that “[w]hile a comparison of one
22 position to another similar position may be useful in gaining a better understanding of the duties
23 performed by and the level of responsibility assigned to an incumbent, allocation of a position
24 must be based on the overall duties and responsibilities assigned to an individual position
25 compared to the existing classifications. The allocation or misallocation of a similar position is
26 not a determining factor in the appropriate allocation of a position.” Citing to *Flahaut v. Dept's of*
27 *Personnel and Labor and Industries*, PAB Case No. ALLO 96-0009 (1996).

1 Therefore, the allocation or misallocation of positions in WSDOT is not a determining factor in
2 the appropriate allocation of Appellants' position.

3
4 Appellants contend that an additional program "Affirmative Action" should be established within
5 the TPS class series just like it is in the HRC series.

6 RCW 41.06.150 provides that:

7 The director [of the Washington State Department of Personnel] shall adopt rules,
8 consistent with the purposes and provisions of this chapter and with the best
9 standards of personnel administration, regarding the basis and procedures to be
10 followed for . . .

11 (4) Adoption and revision of a comprehensive classification plan, in accordance
12 with rules adopted by the board under RCW 41.06.136, for all positions in the
13 classified service, based on investigation and analysis of the duties and
14 responsibilities of each such position and allocation and reallocation of positions
15 within the classification plan.

16
17 In addition, WAC 357-13-010 provides, in relevant part, that: "[t]he director adopts a
18 comprehensive classification plan and any subsequent revisions to the plan."

19 Finally, Appellants' position do not meet the intent of the Management Analyst class series of
20 providing management analysis and consultation functions as the primary focus of their position.
21 Positions in this series analyze management problems, research, analyze, evaluate and make
22 recommendations to higher level management regarding various management functions and
23 activities such as agency and/or institution reorganizations, implementing legislative directives,
24 developing policies and procedures, developing and implementing systems, implementing long-
25 range strategic plans, formulating goals and objectives, resolving customer complaints, and
26 meeting customer requirements. Appellants' positions do not have this focus.

27 While classification revisions are outside of the Board's jurisdiction, we strongly encourage DOT
28 to work with State Human Resources staff in the Office of Financial Management to explore
29 modifications to an existing job class, or a new job class, to more accurately reflect the work

1 performed and that better address and describes the Affirmative Action and external civil rights
2 work used as allocating criteria to currently distinguish the levels within the series.

3
4 Most positions within the civil service system occasionally perform duties that appear in more
5 than one classification. However, when determining the appropriate classification for a specific
6 position, the duties and responsibilities of that position must be considered in their entirety and
7 the position must be allocated to the classification that provides the best-fit overall for the
8 majority of the position's duties and responsibilities. *Dudley v. Dept. of Labor and Industries*,
9 PRB Case No. R-ALLO-07-007 (2007).

10
11 Appellants' work is an asset to the success of the agency. Allocation does not diminish the quality
12 of their work or contributions. The focus of Appellants' work is to use external civil rights
13 programs to ensure agency compliance with Title XI of the 1964 Civil Rights Act. They apply
14 expert-level knowledge and expertise to make decisions on critical and complicated issues relative
15 to ensuring equal employment opportunity for WSDOT. Therefore, Appellants' positions fall
16 within the scope of equal employment opportunity work performed by incumbents in the HRC
17 class series. Also, though external civil rights is not a perfect fit within the affirmative action and
18 diversity arena, it does fall under the broad title of civil rights and associated tasks and programs.
19 This series also encompasses investigations and compliance with a variety of rules, laws and
20 policies, and outreach. Though not a perfect fit, the HRC 4 classification is a best fit for the duties
21 of Appellants' positions.

22
23 In a hearing on exceptions, the Appellants have the burden of proof. WAC 357-52-110.
24 Appellants have failed to meet their burden of proof. The Human Resource Consultant 4
25 classification on best fit bases describes the scope and level of responsibilities of Appellants'
26 positions.

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ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeals on exceptions by John Huff and Melody Stell, are denied and the director’s determinations dated May 18, 2015 is affirmed.

DATED this ____ day of _____, 2015.

WASHINGTON PERSONNEL RESOURCES BOARD

NANCY HOLLAND YOUNG, Chair

VICKY BOWDISH, Member