BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY, Appellant, v. RANDY DAVIS, Respondent.	Case No. ALLO-01-0003 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and LEANA D. LAMB, Member, on Appellant's exceptions to the Director's determination dated January 18, 2001. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on July 26, 2001. GERALD L. MORGEN, Vice Chair, did not participate in the hearing or in the decision in this matter.

Appearances. Appellant Department of Ecology (ECY) was represented by Amy C. Estes, Assistant Attorney General. Respondent Randy Davis was represented by Eric Price, Attorney at Law of Lane Powell Spears Lubersky, LLP.

Background. Respondent requested a reallocation of his position by submitting a classification questionnaire (CQ) to the ECY Employee Services office on October 6, 2000. Alan Jacobs conducted a review of Respondent's position. Prior to Mr. Jacobs' determination, Respondent appealed to the Director of the Department of Personnel. Mr. Jacobs informed Respondent by letter dated December 13, 2000, that his position was appropriately classified as an Environmental Planner 3.

The Director's designee, Paul Peterson, conducted an allocation review of Respondent's position on January 4, 2001. By letter dated January 18, 2001, Mr. Peterson determined that Respondent's position should be reallocated to the Environmental Planner 4 classification.

On February 20, 2001, Appellant ECY filed timely exceptions to the Director's determination with the Personnel Appeals Board. Appellant's exceptions are the subject of this proceeding.

In summary, Appellant takes exception to the finding that Respondent's position should be reallocated even though he has not been given written designation as a senior-level environmental planner responsible for a defined program. Appellant further takes exception to the Director's designee's consideration of an unapproved Classification Questionnaire and to his consideration of the designation given to other Environmental Planner 4 positions.

Respondent works for the Shorelands and Environmental Assistance Program in the Southwest Regional Office. He is a senior technical specialist who works independently with cross-program, multi-media pollution prevention initiatives. Respondent is responsible for directing and guiding local government comprehensive shorelands and coastal zone management program planning activities for the Shoreline Master Program throughout the Southwest Region. Respondent provides technical assistance to and negotiates with local governments in developing complex natural resource protection and land use plans and he prepares findings, conclusions and recommendations for final approval by ECY executive management. Because the Shoreline Master Program is not a new program, it functions under established program procedures and utilizes existing implementation strategies.

Summary of Appellant's Argument. Appellant argues that Respondent has not been given written designation as the senior-level environmental planner responsible for a specifically defined

program as required for allocation to the EP 4 class. Appellant contends that Respondent's duties and level of responsibility are specifically defined by the EP 3 classification. Appellant asserts that Respondent is a principal shoreline specialist, lead planner and project manager, and that he makes recommendations to management as intended for allocation to the EP 3 classification. Appellant further asserts that Respondent does not have authority to negotiate on behalf of other agencies or to enter into agreements without final approval by management as required for allocation to the EP 4 classification.

Appellant contends that written program designation is given to positions that are responsible for developing new implementation strategies for new initiatives or major changes to existing laws, and that have authority to negotiate and enter into final agreements for the agency and for outside agencies and entities. Appellant contends that the Director's designee erred when he determined that the agency lacked clear criteria for determining which positions are given the EP 4 written designation. Appellant contends that the Director's designee exceeded his authority and his decision had the effect of rewriting the classification specification for EP 4.

Appellant contends that management has the right to assign duties to a position. Appellant asserts that the CQ completed by Respondent's supervisor best describes the duties assigned to Respondent's position, rather than the unapproved CQ Respondent submitted with his reallocation request. Appellant argues that the burden of proof is on the employee to prove that his/her position should be reallocated and that in this case, Respondent failed to carry his burden.

Summary of Respondent's Argument. Respondent argues that the agency agrees he is a senior-level planner with region-wide responsibility for complex laws, regulations and policies related to the shorelands and coastal zone management program. Respondent asserts that these duties and responsibilities require him to function at a level comparable to other EP 4 positions. Respondent

further asserts that the duties and responsibilities of his position, as outlined in his Work Expectations and Performance Standards dated February 24, 2000, identify him as a senior-level planner and provide the written designation necessary to reallocate his position to the EP 4 level.

Respondent argues that the Director's designee was correct in determining that the agency had no clear written criteria in place to determine who was entitled to be given written designation as an EP 4. Respondent contends that the agency inconsistently applies arbitrary and subjective criteria to determine which positions are given written designation as EP 4s. Respondent asserts that the exhibits and examples of work he submitted to the Director's designee clearly show that he is functioning at a level equivalent to other EP 4 positions and that his position should be reallocated to the EP 4 classification.

Primary Issue. Whether the Director's determination that Respondent's position is properly allocated to the Environmental Planner 4 classification should be affirmed.

Relevant Classifications. Environmental Planner 3, class code 67420, and Environmental Planner 4, class code 67421.

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. Also, a position review is not a comparison of work performed by employees in similar positions. 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 which best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

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).

Position allocations are "based upon an investigation of duties and responsibilities assigned and/or performed and other information and recommendations." (WAC 356-20-200).

Because a current and accurate description of a position's duties and responsibilities is documented in an approved classification questionnaire, the classification questionnaire becomes the basis for allocation of a position. An allocation determination must be based on the overall duties and responsibilities, as document in the CQ. Lawrence v. Dept of Social and Health Services, PAB No. ALLO-99-0027 (2000).

Respondent submitted a CQ that was not approved by his supervisor or department head. The agency submitted a CQ that was not signed by Respondent or by the department head. Because there appears to be no approved CQ for Respondent's position, we must give consideration to the duties assigned to and performed by Respondent as documented in the exhibits.

The definition for Environmental Planner 4 states: "[s]erves as a senior level environmental planner responsible for a specifically defined program need as designated in writing by a program manager, equivalent or above."

The distinguishing characteristics for Environmental Planner 4 state:

> This class requires written designation by a program manager, equivalent or above, and the majority of work involves dealing with individuals/groups outside of the agency regarding major new initiatives/or major modification to existing laws, policies or program planning needs. The senior planner reports to an Ecology Supervisor 3A, equivalent or above. May supervise staff, but not as a majority of the duties assigned.

In this case, because the ES 4 classification requires written designation as "a senior level environmental planner responsible for a specifically defined program," we must determine whether Respondent's position has been given such a designation in his CQ or by some other document. Respondent asserts that his February 24, 2000, Work Expectations and Performance Standards provide him with the necessary written designation. However, when read as a whole, this document does not encompass duties consistent with senior-level EP 4 work. Rather, this document states that Respondent is a "lead planner" and that he can negotiate "the terms and conditions of SMP approvals." This document also indicates that Respondent functions under specific guidelines, laws and rules. This document does not identify Respondent as a senior-level planner responsible for "major new initiatives or major modification to existing laws, policies or program planning needs." The exhibits and documents in the record do not provide written designation to Respondent, do not demonstrate that Respondent has the independence and decision-making authority inherent in the senior-level activities found at the EP 4 level, and do not support reallocation of his position to the EP 4 classification.

Consistent with our decisions in Griffith v. Dep't of Ecology, PAB Case No. ALLO-00-0016 (2000) and Stash v. Dep't of Ecology, PAB Case No. ALLO-00-0001 (1999), when a classification specification requires written designation, we must look for a document that confers such a designation upon the position in question. This written documentation can be a formal agency

designation form, an approved CQ or other written documentation. In this case, we find no document that confers written designation to Respondent's position.

The definition for Environmental Planner 3 states: "[s]erves as an independent project manager responsible for guiding the development of environmental resource plans, programs, policies or regulations."

The distinguishing characteristics for Environmental Planner 3 state:

> The associate planner level provides expertise and consultation to staff of various environmental programs; or provides planning or policy development assistance to staff from other state agencies, levels of government, or concerned organizations.

Respondent's duties and level of responsibility fit within the description of the EP 3 classification. Furthermore, the following typical work statements describe the level of independence and decision-making authority assigned to his position.

- Plans, directs and coordinates major environmental policy and/or resource planning efforts as a project manager;
- Supervises the preparation of plans, reports, documents, administrative regulations, and other informational material designed to implement the planning objectives of the agency;
- Conducts technical liaison with principal planning personnel in other state departments and with directors of regional, local, and federal planning agencies; and
- Represents the department before federal, state, and local governmental officials on administrative policy in rendering technical assistance.

Respondent's position is best described by the EP 3 classification. The determination of the Director should be reversed.

Conclusion. The appeal on exceptions by Appellant should be granted and Respondent's position should be reallocated to the EP 3 classification. The determination of the Director, dated January 18, 2001, should be reversed.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Appellant Department of Ecology is granted, the determination of the Director, dated January 18, 2001, is reversed, and Respondent Randy Davis's position is reallocated to the Environmental Planner 3 classification.

DATED this _____ day of _____, 2001.

WASHINGTON STATE PERSONNEL APPEALS BOARD

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Walter T. Hubbard, Chair

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Leana D. Lamb, Member