



1 On September 10, 2008, Appellant filed a request for a director's review of Park's determination.  
2 On October 16, 2009, the director's designee determined that Appellant's position was properly  
3 allocated.

4 On November 16, 2009, Appellant filed exceptions to the director's determination. During the  
5 hearing on exceptions, Appellant asked that the Environmental Specialist 5 classification also be  
6 considered for reallocation of his position. Appellant's exceptions are the subject of this  
7 proceeding.  
8

9 **Summary of Appellant's Arguments.** Appellant argues that his position meets the  
10 Environmental Planner 4 definition because he has been given written designation as a senior  
11 level environmental planner and he is designated as the State Environment Policy Act (SEPA)  
12 official. Appellant's supervisor contends that Appellant's position is very legally responsible, is a  
13 critical part of the success of the Eastern Region, and involves multiple jurisdictions and changes  
14 in zoning for long term plans. Appellant's supervisor explains that the majority of Appellant's  
15 duties are planning and working with outside entities on new initiatives which have an  
16 underlying component of SEPA. Appellant explains that SEPA is required for every agency  
17 action including non-project actions and project actions such as building a park or building a  
18 facility. Appellant argues that he meets the minimum qualifications for the both the  
19 Environmental Planner 4 and 5 levels and that he supervises on-call environmental consultants  
20 who are under contract with Parks. Appellant acknowledges that contractors are not state  
21 employees but asserts that he supervises and directs their work, develops and manages the  
22 contracts, and supervises task orders. Finally, Appellant contends that he works independently  
23 under administrative direction and that he exercises a high level of authority when making  
24 decisions under SEPA and mitigating impacts with tribes, federal government and outside  
25 entities, including members of the public. Appellant asserts that the technical aspects of his job  
26 are only part of what he does. Appellant asks the Board to take a broader view of the class  
27 definitions and reallocate his position to the Environmental Planner 4 or the Environmental  
28 Specialist 5 classification.  
29

1 **Summary of Respondent's Arguments.** Respondent argues that while the director's designee  
2 stated that some of Appellant's duties may rise to the Environmental Planner 4 level, the majority  
3 of his duties and responsibilities and the primary focus of his position are within the Environmental  
4 Specialist 4 class. Respondent acknowledges that Appellant has written designation and acts as the  
5 SEPA official for the Eastern Region but asserts that lead policy official for the program is the  
6 Environmental Program Manager. Respondent further asserts that the majority of Appellant's work  
7 does not deal with new initiatives or modification to existing laws or policies as described at the  
8 Environmental Planner 4 class. Respondent contends that even though Appellant is the SEPA  
9 official for the region, his SEPA responsibility represents a portion of his assigned duties and  
10 responsibilities, not a majority of his work. Respondent asserts that Appellant is responsible for  
11 high priority projects, project administration and zoning issues, contracts, and working with teams  
12 on various projects. Respondent contends that Appellant's overall duties and responsibilities fall  
13 within the Environmental Specialist 4 classification.

14 **Primary Issue.** Whether the director's determination that Appellant's position is properly allocated  
15 to the Environmental Specialist 4 classification should be affirmed.

16  
17 **Relevant Classifications.** Environmental Specialist 4, class code 523H, Environmental Specialist  
18 5, class code 523X, and Environmental Planner 4, class code 542U.

19  
20 **Decision of the Board.** The purpose of a position review is to determine which classification best  
21 describes the overall duties and responsibilities of a position. A position review is neither a  
22 measurement of the volume of work performed, nor an evaluation of the expertise with which  
23 that work is performed. A position review is a comparison of the duties and responsibilities of a  
24 particular position to the available classification specifications. This review results in a  
25 determination of the class that best describes the overall duties and responsibilities of the  
26 position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Appellant argues that he meets the minimum qualifications of the EP4 and EP5 classes. However, minimum qualifications are not allocating criteria. The following standards, in descending order, are the primary considerations in allocating positions:

- Class series concept (if one exists).
- Definition or basic function of the class.
- Distinguishing characteristics of a class.
- Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question.

The definition for Environmental Planner 4 states:

Serves 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.

Appellant is designated in writing as a senior program expert. He is not designated as a senior environmental planner for a defined program need. The majority of his work involves implementing capital and operating projects, not dealing with individuals or groups regarding major new initiatives or major modification to existing laws, policies or program planning needs.

Appellant's position does not fit within the Environmental Planner 4 classification.

The definition for Environmental Specialist 5 states, in relevant part:

Serves as a senior program expert in one or more program subject areas as designated in writing by a program manager, assistant secretary, equivalent or higher. A senior program expert develops, performs, directs, implements and/or evaluates activities which are of critical agency, regional, statewide or national interest, sensitivity or complexity. Such activities may include planning and directing surveys and analyses of projects that are a high priority for the agency or participation in the resolution of major environmental questions facing the state.

...

1 In agencies other than Ecology, supervises five or more professional  
2 environmental staff.

3 As provided in the Department of Personnel (DOP) Glossary - Classification, Compensation, &  
4 Management terms, a supervisor is:

5 An employee who is assigned responsibility by management to participate in all of  
6 the following functions with respect to their subordinate employees:

- 7 • Selecting staff
- 8 • Training and development
- 9 • Planning and assignment of work
- 10 • Evaluating performance
- 11 • Resolving grievances
- 12 • Taking corrective action

13 Participation in these functions is not routine and requires the exercise of  
14 individual judgment.

15 Appellant may oversee the work of contractors when implementing capital and operating projects,  
16 however, he does not supervise them. We have previously addressed the issue of supervising  
17 private contractors. See Washington State Parks and Recreation Commission v. McCoy, PRB  
18 Case No. ALLO-09-017 (2009) and Washington State Parks and Recreation Commission v.  
19 Heather, PRB Case No. ALLO-09-018 (2009). Consistent with our previous decisions, private  
20 contractors are not employees for the purpose of allocation.

21 As stated above, Appellant is designated in writing as a senior technical expert for the Eastern  
22 Region. He is not designated as a senior program expert for a program subject area as required  
23 for allocation to the Environmental Specialist 5 classification. Furthermore, he does not  
24 supervisor 5 or more professional environmental staff. Appellant's position does not meet the  
25 level of work described by the definition of Environmental Specialist 5 classification.

26 The definition for Environmental Specialist 4 states, in relevant part:

27 Serves as a senior staff environmental specialist who independently acts as a  
28 section expert in one or more section subject areas as designated in writing by a  
29 program manager, assistant secretary, equivalent or higher. A section expert is  
assigned projects that are a high priority for the program. Trains and mentors more  
junior staff, and may serve as a section historical resource or testify as to historical

1 interpretation of laws and regulations at legal or public hearings; or manages all  
2 the environmental regulatory and analyses functions of an agency.

3 The Department of Personnel (DOP) Glossary - Classification, Compensation, & Management  
4 terms defines the term "specialist" and provides that the duties of a specialist involve intensive  
5 application of knowledge and skills in a specific segment of an occupational area.

6 Appellant perform the duties and responsibilities of a senior environmental specialist for the  
7 Eastern Region. He is designated in writing as a senior technical expert and he is responsible for  
8 high priority and complex projects and contract oversight. He is the expert and acts as State  
9 Environment Policy Act official for the Eastern Region and he consults with and advises agency  
10 staff and outside entities on resource management plans, recreation plans, policies and  
11 regulations. In addition, he represents the agency at public meetings and hearings. Appellant  
12 performs the duties of a senior environmental specialist. His position fits within the  
13 Environmental Specialist 4 classification.

14  
15 In a hearing on exceptions, the appellant has the burden of proof. WAC 357-52-110. Appellant has  
16 failed to meet his burden of proof. Therefore, the appeal on exceptions should be denied, and the  
17 director's determination, dated October 16, 2009, should be affirmed.

18  
19 **ORDER**

20 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Mark Schulz is  
21 denied, and the director's determination dated October 16, 2009, is affirmed.

22  
23 DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

24 WASHINGTON PERSONNEL RESOURCES BOARD

25  
26 \_\_\_\_\_  
LAURA ANDERSON, Vice Chair

27  
28 \_\_\_\_\_  
DJ MARK, Member