

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

TODD EMERSON,

Appellant,

vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

CASE NO. R-ALLO-09-010

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, JOSEPH PINZONE, Chair; LAURA ANDERSON, Vice Chair; and DJ MARK, Member, for hearing on Appellant's exceptions to the director's determination dated March 20, 2009. The hearing was held at the office of the Personnel Resources Board in Olympia, Washington, on July 29, 2009.

**Appearances.** Appellant was present and represented himself. Respondent Department of Transportation (DOT) was represented by Niki Pavlicek, Manager of Classification, Compensation and Operations.

**Background.** Appellant's position was allocated to the Transportation Engineer 2 (TE2) classification. On August 9, 2007, Appellant submitted a Classification Questionnaire (CQ) asking DOT to reallocate his position to the Transportation Engineer 3 (TE3) classification. By letter dated July 16, 2008, DOT denied Appellant's reallocation request.

On July 31, 2008, Appellant filed a request for a director's review of DOT's allocation determination. By letter dated March 20, 2009, the director's designee determined that Appellant's position was properly allocated to the TE2 classification.

On April 1, 2009, Appellant filed exceptions to the director's determination. Appellant's exceptions are the subject of this proceeding.

Appellant works in the DOT Eastern Region, Design/Plans Office in the Right of Way and Surveying section. Appellant's working title is Regional Survey Coordinator. As stated in the CQ he submitted for his request for review, Appellant is responsible for training, coordinating, and troubleshooting, in regard to the Global Positioning System (GPS) and the Continuous Operating System (CORS) for DOT surveyors in the Eastern Region. In addition, he assists field surveyors with boundary locations; provides technical assistance to designers; shares survey information and maintains liaisons with federal, state, and local agencies and others; and in the absence of his supervisor, represents the region at statewide survey meetings. At the time of his request for review, Appellant was not assigned supervisory responsibilities for subordinate staff.

Mr. John Lacy is Appellant's immediate supervisor. Mr. Lacy signed the CQ but did not indicate whether he agreed or disagreed with the duties described. However, in a letter dated September 19, 2008, Mr. Lacy indicated surprise with DOT's denial of Appellant's reallocation and stated his belief that Appellant was a staff specialist in a complex area of limited scope.

**Summary of Appellant's Argument.** Appellant contends that the director's designee did not consider critical documents supporting the reallocation of his position and did not give appropriate weight to the opinions of other DOT staff, including his supervisor, regarding the proper allocation of the duties he performs. Appellant argues that his supervisor and other DOT staff believe that the work he performs meets the TE3 classification. Appellant explains that when he provides training to DOT staff and assists staff with troubleshooting equipment problems, he is performing supervisory functions. Appellant further explains that his duties include analyzing complex survey data; establishing controls and applying knowledge, understanding, and experience to assure survey data is accurate; and troubleshooting problems and recommending solutions related to the use of the GPS technology by region staff. Appellant asserts that he performs advanced engineering work and serves as a specialist in a complex area as described by the TE3 classification.

1 **Summary of Respondent's Arguments.** Respondent argues that the duties of Appellant's position are  
2 encompassed by the TE2 classification. Respondent acknowledges that the GPS technology has  
3 changed how Appellant performs his work but asserts that the work itself has remained the same.  
4 Respondent explains that during the desk audit interview with Appellant's supervisor, he described the  
5 inaccuracies in Appellant's CQ and provided further clarification of the actual work performed.  
6 Respondent contends that the work as described by Appellant's supervisor fits within the TE2  
7 classification. Respondent argues that Appellant does not supervise staff, does not perform advanced  
8 engineering, and does not perform the level or scope of work performed by staff responsible for GPS  
9 surveying in other regions. Respondent asserts that surveying in and of itself is not considered a  
10 specialty area and is specifically included in the TE2 classification as is the responsibility to train and  
11 direct the work of staff. Respondent contends that Appellant does not supervise subordinate staff or  
12 function as a staff specialist performing advanced engineering work in an area of limited scope,  
13 therefore, his position does not fit within the TE3 classification.

14  
15 **Primary Issue.** Whether the director's determination that Appellant's position is properly allocated to  
16 the Transportation Engineer 2 classification should be affirmed.

17  
18 **Relevant Classifications.** Transportation Engineer 2, class code 530L; Transportation Engineer 3, class  
19 code 530M.

20  
21 **Decision of the Board.** The purpose of a position review is to determine which classification best  
22 describes the overall duties and responsibilities of a position. . . . A position review is a comparison of  
23 the duties and responsibilities of a particular position to the available classification specifications. This  
24 review results in a determination of the class that best describes the overall duties and responsibilities of  
25 the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

26  
27 The allocation of similar positions in other regions was discussed during the hearing before the  
28 Board. While a comparison of one position to another similar position may be useful in gaining a

1 better understanding of the duties performed by and the level of responsibility assigned to an  
2 incumbent, allocation of a position must be based on the overall duties and responsibilities assigned  
3 to an individual position compared to the existing classifications. The allocation or misallocation of  
4 a similar position is not a determining factor in the appropriate allocation of a position. Flahaut v.  
5 Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

6  
7 In addition, the opinion of other DOT staff regarding the allocation of Appellant's position was  
8 discussed during the hearing before the Board. While the opinion of other staff is not an allocating  
9 criterion, the opinion of Appellant's supervisor should be given appropriate weight. In this case,  
10 Appellant's supervisor signed the CQ describing the duties Appellant performs and provided a  
11 letter of support for the reallocation. Appellant's supervisor indicated that surveying is a very  
12 specialized part of making sure that the complex issues of project delivery are accomplished. He  
13 further indicated that Appellant functions as a staff specialist in learning, using and training for the  
14 ever-changing state-of-the-art surveying equipment utilized by DOT and that he developed the  
15 procedures and practices for the successful operation of the equipment. We have reviewed the  
16 desk audit notes prepared by human resources staff during the interview of Appellant's supervisor.  
17 We have given those notes appropriate weight in light of the supervisor's subsequent signed letter  
18 of support.

19  
20 The definition for the TE2 classification states, "[p]erforms transportation engineering work under  
21 general supervision."

22  
23 The distinguishing characteristics for the TE2 classification state:

24 Work at this level is characterized by the independent application of standard  
25 engineering procedures and techniques to accomplish a wide variety of work in the  
26 office, laboratory, and/or field. Incumbents generally serve as full production staff  
27 or crew leaders. Work is assigned through general instructions and the setting of  
28 deadlines by a supervisor who engages in ongoing spot-check review, provides  
29 assistance when problems are encountered and reviews completed work. This role  
may include the leadership of technical support staff and entry level engineers such  
that incumbents are called upon to direct and train staff.

1  
2 Some of the duties assigned to Appellant's position are encompassed by the TE2 classification;  
3 however, this class does not recognize level of specialized, advanced work that Appellant performs. The  
4 TE2 classification is not the best fit for Appellant's position.

5  
6 The definition for the TE3 classification states, "[p]erforms advance transportation engineering work  
7 under limited supervision."

8  
9 Appellant performs advance transportation engineering work in the complex areas of GPS and CORS.  
10 As described by Appellant's supervisor in Appellant's position description form, Appellant works under  
11 limited supervision. Appellant's position fits within the definition of the TE3 classification.

12  
13 The distinguishing characteristics for the TE3 classification state, in relevant part:

14 At this level, incumbents are generally placed in charge of a major project or  
15 functional area which is characterized by supervising several support staff (staff may  
16 include or consist of contracted consultants) or serve as a staff specialist in a  
17 complex area of limited scope (this may include serving as a staff specialist  
18 consultant to Local Agencies). Incumbents are expected to possess a thorough  
19 working knowledge of agency policies, standards and procedures as well as  
20 engineering principles, methods and practices. Assignments require judgments in  
21 selecting and adapting techniques to solve transportation problems. Incumbents  
22 may represent the Department at public meetings, open houses, to local agencies,  
23 contractors, consultants, etc., for specific projects. While work is occasionally spot-  
24 checked and reviewed upon completion, incumbents are responsible for planning  
25 and carrying out projects with only minimal supervision. Staff at this level are often  
26 called on to assign, train and evaluate engineers and technicians.

27  
28 Under the first option in the distinguishing characteristics, Appellant argues that when he is  
29 training DOT staff to use surveying equipment and helping them troubleshoot and resolve  
30 problems, he is performing supervisory responsibilities. However, Appellant does not perform the  
31 supervisory activities required for allocation to a supervisory classification. For purposes of  
32 position allocation, the Department of Personnel Glossary of terms for Classification,  
33 Compensation, & Management provides that a supervisor is 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. Participation in these functions is not routine and requires the exercise of individual judgment.” Appellant does not meet the first option in the TE3 distinguishing characteristics.

But, as described in the second option for in the TE3 distinguishing characteristics, Appellant serves as a staff specialist in the complex areas of GPS and CORS. He uses judgment in selecting techniques to troubleshoot and resolve problems; in the absence of his supervisor, represents the region at statewide survey meetings and acts as a liaison with outside organizations; works under minimal supervision; develops procedures and practices; and trains staff in the use of the equipment.

In Department of Transportation v. Ensley, Greer and Hughes, PRB Case Nos. R-ALLO-07-019, R-ALLO-07-020 & R-ALLO-07-021 (2008), we found that the appellants were staff specialists; they work under limited supervision; were assigned to a complex area of limited scope; represented the agency internally and with outside entities; and assisted in training others. We determined that their positions were best described by the TE3 classification. Here as in Department of Transportation v. Ensley, Greer and Hughes, Appellant is a staff specialist. He works under limited supervision, is assigned to a complex area of limited scope, represents the agency internally and with outside entities, and trains staff. Appellant’s position fits within the second option of the TE3 distinguishing characteristics.

In a hearing on exceptions, the appellant has the burden of proof. WAC 357-52-110. Appellant has met his burden of proof. Therefore, the appeal on exceptions should be granted, and the director’s determination, dated March 20, 2009, should be reversed.

/ / / /

/ / / /

**ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Todd Emerson is granted and his position is reallocated to the Transportation Engineer 3 classification

DATED this \_\_\_\_ day of \_\_\_\_\_, 2009.

WASHINGTON PERSONNEL RESOURCES BOARD

\_\_\_\_\_  
JOSEPH PINZONE, Chair

\_\_\_\_\_  
LAURA ANDERSON, Vice Chair

\_\_\_\_\_  
DJ MARK, Member