

BEFORE THE PERSONNEL RESOURCES BOARD
STATE OF WASHINGTON

KENNETH JURGENSEN,

Appellant,

vs.

DEPARTMENT OF CORRECTIONS,

Respondent.

CASE NO. R-ALLO-07-016

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 Resources Board, LAURA ANDERSON, Chair, and JOSEPH PINZONE, Member, on Appellant's exceptions to the Director's determination dated August 3, 2007. The hearing was held at the office of the Personnel Resources Board in Olympia, Washington, on January 3, 2008.

Appearances. Appellant Kenneth Jurgensen was present and represented himself *Pro Se*. The Department of Corrections (DOC) was represented by Joanne Harmon, Human Resource Consultant.

Background. Appellant's position was allocated to the Corrections Specialist 3 classification. On December 12, 2006, he submitted a Position Description Form asking that his position be reallocated to the Correctional Hearings Officer 3 classification. By letter dated December 19, 2006, Megan Smith, Human Resource Consultant for the Department of Corrections, denied Appellant's request. Appellant requested a review of DOC's decision by the Director of the Department of Personnel (DOP).

The Director's designee, Teresa Parsons, conducted a review of Appellant's request for reallocation. By letter dated August 3, 2007, Ms. Parsons determined that Appellant's position was properly allocated to the Corrections Specialist 3 classification.

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2 On September 7, 2007, Appellant filed exceptions to the Director's determination. Appellant's
3 exceptions are the subject of this proceeding.
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5 Appellant's position administers the offender disciplinary hearings program at the Washington
6 State Penitentiary and conducts prison disciplinary hearings in compliance with WAC Chapter 137-
7 28. In performing his duties and responsibilities, Appellant applies the "some evidence" rule,
8 independently makes decisions, determines if misconduct occurred and imposes appropriate
9 sanctions. Appellant also prepares hearing findings and dispositions and serves as the final appeal
10 authority for general infractions. Some of Appellant's decisions may be appealed to the
11 Superintendent. As noted in his Position Description form, Appellant supervises one Evidence
12 Custodian position.
13

14 **Summary of Appellant's Arguments.** Appellant argues that the Correctional Hearings Officer 3
15 classification best describes his position because the duties and responsibilities he performs in
16 conducting offender disciplinary hearings are most similar with the duties and responsibilities
17 performed by hearing officers who perform community custody violation hearings. While
18 Appellant acknowledges he conducts offender hearings within a correctional institution rather than
19 outside in the community, he contends the process is the same. For example, Appellant argues that
20 he conducts due process hearings for offenders, applies laws and WACs, and issues decisions based
21 on facts. Appellant contends that his decisions affect offenders' liberty interests in that the sanctions
22 he imposes may take away from the "good time" the offender has earned toward early release.
23 Appellant asserts location is the primary difference between the two classes and contends the
24 Corrections Specialist 3 is a "catch all" classification while the Correctional Hearings Officer 3
25 speaks specifically to conducting offender hearings. Appellant contends that other positions
26 included in the Corrections Specialist 3 class do not conduct disciplinary hearings but rather, are
27 responsible for specific programs within the institution. Because his position conducts hearings,
28 Appellant asserts that he should be allocated to a classification that best fits his specific duties and
29

encompasses the responsibilities of his position, in this case, the Correctional Hearings Officer 3 classification.

Appellant further argues there is a pay inequity between the Corrections Specialist 3 (CS3) and the Correctional Hearings Officer 3 (CHO3) classifications because both classes have responsibility for conducting hearings and imposing sanctions yet the CHO3 is paid more. Appellant suggests that by allocating his position to the Correctional Hearings Officer 3 classification, he would receive comparable pay for like work.

Summary of Respondent's Arguments. Respondent that argues Appellant's position is properly allocated to the Corrections Specialist 3 classification. Respondent asserts that Appellant is assigned senior-level, professional duties in a correctional program that includes institutional hearings regarding offender disciplinary matters. Respondent acknowledges there are similarities between the duties performed by CS3 hearing officers and CHO3s. However, Respondent argues that hearings on community custody violations are based on the preponderance of evidence rule rather than on the some evidence rule and that hearings on community custody violations impact offenders released into the community rather than offenders within the institution. As such, Respondent asserts that the work performed by CHO3 positions entail a greater level of risk and responsibility to the community when an offender violates the conditions of release.

Further, Respondent contends the decision-making by a Correctional Hearings Officer in Community Corrections has broader impact and the sanctions imposed, such as returning an offender to confinement, are more severe. Because Appellant conducts disciplinary hearings on offender violations within an institution, Respondent asserts that the sanctions he imposes are less severe and have less impact on the community. Respondent acknowledges that Appellant is an exemplary employee; however, based on the assignment of duties in comparison with the available job classifications, Respondent contends that his position is properly allocated to the CS3 classification.

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2 **Primary Issue.** Whether the director's determination that Appellant's position is properly allocated
3 to the Corrections Specialist 3 classification should be affirmed.

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5 **Relevant Classifications.** Corrections Specialist 3 classification, class code 350C, and Correctional
6 Hearings Officer 3, class code 421C.

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

15
16 Appellant argues salary inequity as one basis for supporting his request for reallocation.
17 However, salary inequity is not an allocation criterion and should not be considered when
18 determining the appropriate allocation of a position. See *Sorensen v Depts. Of Social and*
19 *Health Services and Personnel*, PAB Case No. A94-020 (1995).

20
21 Appellant also argues that his position should be reallocated to CHO3 class on the basis of the
22 best fit. In *Salsberry v. Washington State Parks and Recreation Commission*, PRB Case No. R-
23 ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of best fit. The
24 Board referenced *Allegri v. Washington State University*, PAB Case No. ALLO-96-0026
25 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and
26 responsibilities did not encompass the full breadth of the duties and responsibilities described
27 by the classification to which his position was allocated, on a best fit basis, the classification

1 best described the level, scope and diversity of the overall duties and responsibilities of his
2 position.

3
4 However, the concept of best fit applies when no specific classification encompasses the totality of
5 duties and responsibilities of a position. In Mikitik v. Dept's of Wildlife and Personnel, PAB No.
6 A88-021 (1989), the Personnel Appeals Board concluded that when there is a class that
7 specifically includes a particular assignment and there is a general classification that has a
8 definition which could also apply to the position, the position should be allocated to the class
9 that specifically includes the position.

10
11 The Correctional Hearings Occupational Category Concept provides, in relevant part, "[t]his series
12 conducts offender hearings and renders decisions on alleged community custody violations."

13
14 The definition of the Correctional Hearings Officer 3 classification states: "[t]his is the senior,
15 specialist, or lead worker level of the series. Positions specialize in hearing community custody
16 violations and render decisions based upon the preponderance of the evidence."

17
18 Appellant does not conduct offender hearings or render decisions on alleged community custody
19 violations. His position does not fit within the category concept for the CHO3 classification.
20 Appellant is a senior worker, but he does not specialize in hearing community custody violations
21 and he does not make decisions based on the preponderance of the evidence. His position does not
22 fit with the definition of the CHO3 classification.

23
24 During his presentation before the Board, Appellant highlighted the examples of work statements
25 found in the CHO3 classification that he felt encompassed his duties and responsibilities. In
26 accordance with the guidance provided in the Department of Personnel Classification and Pay
27 Administrative Guide, examples of work statements are not allocating criteria. Rather they
28 provide guidance on the level of work typically found in the various classes within the series.

1 The guidance provided in Classification and Pay Administrative Guide establishes that the
2 following standards are primary considerations in allocating positions:

- 3 a) Category concept (if one exists).
- 4 b) Definition or basic function of the class.
- 5 c) Distinguishing characteristics of a class.
- 6 d) Class series concept, definition/basic function, and distinguishing
7 characteristics of other classes in the series in question.

8 The Corrections Specialists Occupational Category Concept provides, in relevant part, “[w]ithin the
9 Department of Corrections, [the incumbent] is responsible for various correctional programs as
10 assigned, such as . . . institutional hearings. . . .”

11 The distinguishing characteristics of the Corrections Specialist 3 classification states, in relevant
12 part, “[t]his is the senior, specialist, or lead worker level of the series. Within the Department of
13 Corrections, develops, coordinates, implements and/or evaluates various correctional
14 program(s) as assigned. Prepares comprehensive reports and makes recommendations for
15 management, identifies and projects trends, and monitors program expenditures for adherence
16 to budgeted allocations. Positions in this class perform professional level duties covering one or
17 more of the following correctional program areas: . . . institutional hearings (e.g., disciplinary,
18 intensive management, administrative segregation). . . .

19
20 Appellant’s position specifically fits within the category concept and the distinguishing
21 characteristics of the CS3 classification.

22
23 In addition, while not allocating criteria, Appellant’s position specifically fits within the
24 examples of work found in the CS3 classification. Appellant:

25 Interprets and explains applicable laws, rules, regulations, policies and
26 procedures, monitors program activities for compliance; reviews/develops field
27 instructions relevant to assigned program area(s); be knowledgeable of
28 directives, policies, field instructions, WACs and RCWs;

29 . . .

1 Conducts disciplinary hearings in accordance with WAC; recommends changes
2 in offenders' custody and classification; makes referrals to administrative
3 segregation; ensures all documentation and statistical information is compiled
4 and properly distributed; monitors and ensures due process is followed. . . .

5 Here, as in Crewes v. DOC, PRB Case No. R-ALLO-07-008 (2007), we acknowledge that the
6 duties and responsibilities of the CHO3 and the CS3 are very similar in nature but find that the level
7 of decision-making, the knowledge employed, and the impact to the community are not identical.
8 The distinguishing factors in the Correctional Hearings Officer 3 class specifically relate to
9 community custody violations and the threshold of evidence under which decisions are rendered. In
10 addition, the impact and breadth of decisions made by hearings officers in the community carry a
11 higher level of immediate risk to the community at large. These distinctions are not solely limited to
12 the location of the work, but rather, are indicative of the knowledge and skills employed by the
13 incumbent and the level of risk and potential impact to the community.

14 In a hearing on exceptions, the Appellant has the burden of proof. WAC 357-52-110. Appellant
15 has failed to meet his burden of proof. Based on the available classifications, Appellant's position
16 is properly allocated to the Corrections Specialist 3 classification.

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18 **ORDER**

19 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Kenneth
20 Jurgensen is denied, and the Director's determination dated August 3, 2007 is affirmed and
21 adopted.

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23 DATED this ____ day of _____, 2008.

24 WASHINGTON PERSONNEL RESOURCES BOARD

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27 _____
LAURA ANDERSON, Chair

JOSEPH PINZONE, Member

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