BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

DAVID MCBRIDE, Appellant, vs. DEPARTMENT OF HEALTH, Respondent.	CASE NO. R-ALLO-12-010 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, DJ MARK, Chair; JOSEPH PINZONE, Vice Chair; and NANCY HOLLAND YOUNG, Member, for a hearing on Appellant's exceptions to the director's determination dated August 24, 2012. The hearing was held in the Personnel Resources Board hearing room in Olympia, Washington, on December 12, 2012.

Appearances. Appellant David McBride was present and represented himself. Respondent Department of Health (DOH) was represented by Lou Owen, Human Resource Consultant.

Background. Appellant's position is allocated to the Toxicologist 2 (Tox 2) classification. On November 23, 2011, he submitted a Position Review Request to DOH's Human Resources office asking that his position be reallocated to the Toxicologist 3 (Tox 3) classification. DOH reviewed Appellant's position and by letter dated December 8, 2011, denied Appellant's reallocation request.

On January 6, 2012, the Office of the State Human Resources Director received Appellant's request for a director's review of DOH's decision. By letter dated August 24, 2012, the director's designee determined that Appellant's position was properly allocated to the Tox 2 classification. On September 12, 2012, Appellant filed exceptions to the director's determination. Appellant's exceptions are the subject of this proceeding.

Appellant's position is within DOH's Office of Environmental Health and Assessment. Appellant is the lead for the Fish Advisory Program, represents the program on state and national workgroups and committees and at legislative hearings and acts as the spokesperson for the program and issues regarding fish advisories and contaminates. While Appellant has provided expertise in areas not related to fish such as air contaminates in an elementary school, the primary thrust and scope of his work is related to the fish advisory program.

Summary of Appellant's Arguments. Appellant argues that no criteria exist for determining which positions within DOH are designated by management as senior toxicologists. Appellant asserts that he performs senior level work as encompassed by the Tox 3 classification and that he deals with more issues than any other toxicologist within DOH. Appellant contends that he is recognized internally and externally as the DOH expert in fish advisories, fish consumption and air and ground contaminates that enter fish through the waterways. Appellant asks for equity and fairness between his position and those of his peers within DOH and other state and federal agencies.

Summary of Respondent's Arguments. Respondent argues that DOH business needs do not require more than one Tox 3 within the Office of Environmental Health and Assessment. Respondent acknowledges that Appellant is responsible for the Fish Advisory Program and acts as a spokesperson within his area of responsibility. However, Respondent contends that the limited scope of Appellant's responsibilities to not meet the intent of the Tox 3 classification. Respondent argues that the Tox 3 has a broader scope of responsibility, can respond to any type of issue that comes up and is not limited to one or two programs. Respondent asserts that the scope of Appellant's position and the level of authority assigned to the position fit within the Tox 2 classification.

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

Relevant Classifications. Toxicologist 2, class code 303F; Toxicologist 3, class code 303G.

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. 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 that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), the Personnel Resources Board held that "[w]hile 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." Citing to Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996). Therefore, the allocation or misallocation of other toxicologist positions at DOH or other agencies is not a determining factor in the appropriate allocation of Appellant's position.

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 Toxicologist class series does not contain a class series concept. Therefore, the definition becomes the first consideration in allocating positions to these classes. The definition for the Tox 2 and the Tox 3 are nearly identical. The distinguishing characteristics differentiate the scope of duties and level of responsibility assigned to each level.

The distinguishing characteristics for the Tox 3 state:

> The Toxicologist 3 is distinguished from the Toxicologist 2 by serving as a senior toxicologist as designated by management. Provides technical assistance to lower level toxicologists on public health issues which are non-routine or which are based on inconclusive data. Represents the office to multi-agency taskforces, legislative hearing, public interest groups, and the press. Evaluates toxicology research literature for relevance to program needs.

DOH has not designated Appellant's position as a senior toxicologist, which is an essential element of the Tox 3 classification. In addition, Respondent established there was no need for another senior toxicologist in the Office of Environmental Health and Assessment. Further, we concur with the director's designee's finding that Appellant's position does not fully meet the intent of the Tox 3 class of having a larger scope of responsibility for representing the office as a whole to multi-agency taskforces, legislative hearings, public interest groups, and the press on a broad scope of public health/toxicological issues. Finally, Respondent established that, while there was some overlap between the Tox 2 and the Tox 3 classifications, Appellant's work was predominantly concentrated in the Fish Advisory Program.

The distinguishing characteristics for the Tox 2 state:

> The Toxicologist 2 is distinguished from the Toxicologist 1 by serving as the technical specialist/lead on projects, providing leadership and direction on non-routine public health issues. Represents the department to one or more of the following: multi-agency taskforces, legislative hearings, public interest groups, and the press and makes presentations to the public, peers, and managers. Positions perform duties independently.

The scope of duties and level of responsibilities assigned to Appellant's position fit within the Tox 2 definition.

In a hearing on exceptions, the Appellant has the burden of proof. WAC 357-52-110. Appellant has failed to meet his burden of proof. The Toxicologist 2 classification best describes the overall duties and responsibilities of Appellant's position.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by David McBride is denied. His position is properly allocated to the Toxicologist 2 classification.

DATED this _____ day of _____, 2012.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Chair

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JOSEPH PINZONE, Vice Chair

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NANCY HOLLAND YOUNG, Member