BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

CHARLENE HARVEY Appellant, vs. DEPARTMENT OF CORRECTIONS Respondent.	)	CASE NO. R-ALLO-17-016 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, NANCY HOLLAND YOUNG, Chair, VICKY BOWDISH, Vice Chair, and SUSAN MILLER, Member. The hearing was held on November 2, 2017, at Capitol Court, Room 110; 1110 Capitol Way, Olympia, WA.

Appearances.

Appellant Charlene Harvey was present and represented by Sarena Davis of the Teamsters Local 117. Respondent Department of Corrections (DOC), was present and represented by Rozanne Stewart, Human Resource (HR) Consultant.

Background.

On October 19, 2016, Appellant submitted a Position Review Request (PRR) to DOC HR requesting allocation from Equipment Operator 2 (EO 2) to Equipment Operator Supervisor (EOS) or Correctional Industries Supervisor 2 (CIS 2).

By letter dated November 22, 2016, Appellant was notified that her position remained allocated to EO 2.

On December 9, 2016, the Office of Financial Management, State Human Resources (OFM-SHR) received Ms. Harvey's Request for a Director's Review of DOC HR's allocation determination.

By letter dated August 14, 2017, Appellant was notified her position was properly allocated to EO 2.

On September 12, 2017, Appellant filed timely exceptions to the director's determination. In her appeal, Appellant contended her position should be allocated to EOS.

As summarized in her Position Review Request (PRR), Appellant states her position purpose as follows:

> "My position exists mainly for the stewardship of McNeil island. My position is one of a kind for C.I. and is very site specific, I operate all the earth moving equipment on the island as well as all the CDL required heavy duty trucks to ensure maintenance of the city like island. We have water filtration, waste water, power grid, and water mains. General areas such as infrastructure and roads."

According to her PRR, 65% of Appellant's responsibilities entail training and supervising offenders in the operation and maintenance of earth moving equipment. This includes selecting and evaluating offenders; disciplining offenders; enforcing safety rules and regulations; planning and assigning tasks; and maintaining efficiency.

At her time of hire, Appellant reported to Brian Clark, Correctional Industries Supervisor. Appellant now reports to Henry Mack, General Manager.

Summary of Appellant's Arguments.

Appellant believes her daily work is consistent with the position description (PD) date stamped in DOC HR's Office on September 1, 2015. The Director's Review Request asked for reallocation to the CIS 2 or the EOS job class.

Appellant contends when she was asked to fill the position in August of 2015, she was told by her supervisor, Mr. Clark, she would be an EOS. However, Mr. Clark later explained that due to budgetary reasons, DOC was initiating cutbacks and that included reallocating Appellant's position downward. Appellant states Mr. Clark said he would try to get the position reallocated back to the EOS within one year.

Appellant maintains the PD, date stamped in DOC's HR Office on September 1, 2015, had the job class, "Equipment Operator Supervisor" crossed out and changed to "Equipment Operator 2." Appellant further asserts this change happened after she signed the PD. Appellant argues that although the current class title was handwritten to reflect an EO 2, the remainder of the EOS PD was unchanged and is an accurate reflection of the work she performs on McNeil Island. As such, Appellant states the verbal arrangement of being returned to the EOS job class, along with the PD's duties and daily work remaining the same after the class title change is her reason for pursuing reallocation to EOS or CIS 2.

Appellant asserts the organizational structure on McNeil Island consists of job classes that are inconsistent with the class specifications and further asserts her position is the lowest paid position on the island, yet carries a higher level of responsibility than the unit's CIS 2s. Appellant contends that while CIS 2s should have manufacturing in their PDs, as the class series concept outlines, there is no manufacturing on the McNeil Island. Appellant points out the CIS 2s perform yard work and transport offenders from Cedar Creek Correctional Facility to McNeil Island.

Appellant states her responsibilities, as outlined in her PD, indicate she is responsible for operating trucks, tractors, shovels, bulldozers and other heavy equipment. In addition, like other positions on McNeil Island, she leads, participates and evaluates the training of offenders in her area of expertise, heavy equipment. Recently, she presented a 10-week classroom training course to offenders. Appellant asserts many of her responsibilities are at a higher level than the CIS 2s performing yard work. Appellant further asserts that although the EOS calls for supervising staff, not offenders, there are no staff to supervise on McNeil Island.

Summary of Respondent's Arguments.

Respondent contends the appropriate job class best matching the majority of Appellant's work is the EO 2. Respondent states DOC will consider the absence of manufacturing work when reviewing the CIS 2 PDs and further states they may be misallocated. However, Respondent argues that one position cannot be compared to others when making allocation decisions, rather duties assigned positions must be compared to the class specifications.

Respondent asserts Appellant could have appealed when her position was reallocated downward from EOS to EO 2 and maintains she does not know who crossed out the job class title on Appellant's PD.

Respondent argues the classroom training is outside the 12-month review period and therefore should not be considered at this time.

Primary Issue. Whether the director's determination should be affirmed in that Appellant's position should remain allocated to EO 2.

Relevant Classifications. Equipment Operator 2; Equipment Operator Supervisor; Correctional Industries Supervisor 2.

Decision of the Board.

Relevant Class Specifications:

Equipment Operator Supervisor

There is no class series concept or distinguishing characteristics for the EOS job class.

Definition.

Supervise heavy equipment operators, utility/maintenance workers, and other employees in the operation and maintenance of construction and earth moving equipment and the installation, maintenance, and alteration of plant facilities.

There are no distinguishing characteristics for Equipment Operator Supervisor.

The definition for EOS specifies incumbents supervise employees, not offenders. It is not uncommon for class specifications for various trades in DOC to call out employees and offenders as subordinates; or call out only one or the other. The Board recognizes there are no staff on the island to supervise, yet also recognizes the level of responsibility and independence afforded Appellant in overseeing, leading and training offenders for large projects utilizing heavy equipment. However, as the Director's Review Specialists and HR staff are bound to the limitations in the class specifications, so is the Board. As such, allocation to EOS is not an option because the qualifier is supervision of employees, not offenders.

Correctional Industries Supervisor 2, Corrections

There are no distinguishing characteristics for CIS 2.

> **Class Series Concept.**
>
> This series works with offender inmates to teach them a variety of trades and other skills used in the manufacturing process. Positions learn to balance work schedules and due dates, materials, costs, different production lines and product quality, supervise, teach, and train offenders in the work unit.
>
> **Definition.**
>
> This is the journey, working or occupational level of the series. Incumbents perform their work independently and are competent to resolve issues within their area of responsibility. Positions often lead or supervise offenders or staff in different occupational categories.

In *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008), the Personnel Resources Board stated the following standards are the hierarchy of primary considerations in allocating positions:

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

First, consideration must be given to what is now called the "class series concept," formerly referred to as the "category concept." The class series concept for the CIS 2 states, "This series works with offender inmates to teach them a variety of trades and other skills used in the manufacturing

process…" The Board recognizes there is no manufacturing on McNeil Island and therefore recognizes the other CIS 2s in the same unit may be misallocated.

However, In *Byrnes v. Depts. 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."

Once again, the Director's Review Specialists, HR staff and the Board are bound to the language in the class specifications. As such, allocation to CIS 2 is not an option because the qualifier in the class series concept calls out manufacturing work for this job class series.

Equipment Operator 2

Definition:

> Operate construction and earth moving equipment identified on the Equipment Operator Class B and Class C lists.

Distinguishing Characteristics:

> This classification is distinguished from Equipment Operator 1 by the absence of regular assignment to operate Class A equipment.

With leading and training offenders and independently handling projects using heavy equipment, the Board recognizes Appellant's level of responsibility may be higher than that of an EO 2. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's

duties and responsibilities. See *Dudley v. Dept. of Labor and Industries*, PRB Case No. R-ALLO-07-007 (2007).

The Board encourages DOC HR to contact State HR's Classification and Compensation Unit regarding the possibility of updating class specifications germane to this appeal. As provided in RCW 41.06.152, Job classification revisions, class studies, salary adjustments:

> Limitations. (1) The director shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.157 that: (a) As defined by the director, are due to documented recruitment or retention difficulties, salary compression or inversion, classification plan maintenance, higher level duties and responsibilities, or inequities; and
>
> …

The Board has considered all Appellant's exceptions to the director's determination and finds the duties of this position best fit the class specification for Equipment Operator 2.

In a hearing on exceptions, the Appellant has the burden of proof (WAC 357-52-110). Appellant has not met her burden of proof.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Charlene Harvey is denied; the director's determination dated August 14, 2017, is upheld; and Appellant's position remains allocated to Equipment Operator 2.

DATED this _____ day of _____, 2018.

WASHINGTON PERSONNEL RESOURCES BOARD

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NANCY HOLLAND YOUNG, Chair

_____
VICKY BOWDISH, Vice Chair

_____
SUSAN MILLER, Member