

February 2, 2010

TO: Billie Ackerman

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Billie Ackerman v. Department of Corrections (DOC)
Allocation Review Request ALLO-09-028

On October 28, 2009, I conducted a Director's review telephone conference regarding the allocation of the following positions:

Billie Ackerman	Position #BU22
Risa Klemme	Position #2389
Sue Gibbs	Position #GF14
Debra Dobson	Position #BS01

You and the other employees all participated in the telephone conference. Doug Cole, Superintendent for the Washington Corrections Center for Women (WCCW) also participated in the conference. Human Resources (HR) Consultants Tina Cooley and Joanne Harmon represented DOC. HR Consultant Nicole Baker observed.

Director's Determination

This position review was based on the work performed for the six-month period prior to October 15, 2008, the date a Position Description Form (PDF) was submitted to DOC's HR Office, requesting reallocation of your position. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Administrative Assistant 4 classification.

Background

Your position is located at the Washington Corrections Center for Women (WCCW), and you report directly to Superintendent Doug Cole. On September 8, 2008, a number of employees in Administrative Assistant 4 (AA 4) positions submitted a letter to Secretary Eldon Vail,

requesting reclassification of prison AA 4 positions (Exhibit B-1). On October 15, 2008, you completed a Position Description Form (PDF) to formally request reallocation of your position, which Superintendent Cole reviewed and signed. On the PDF, you requested reallocation of your position from the AA 4 class to Corrections Specialist 3 (CS 3). Because a number of employees in AA 4 positions at institutions throughout the state had sent a joint letter to Secretary Vail requesting a review of their positions, Human Resources Director Donna Haley completed the review.

Prior to issuing her determination, Ms. Haley asked HR Consultant Jenny Warnstadt to perform a desk audit of the AA 4 positions by selecting a cross section of the positions located at the various institutions. On April 14, 2009, Ms. Haley issued an allocation decision, concluding the AA 4 classification best described the duties and responsibilities assigned to your position. Specifically, Ms. Haley determined your position did not meet the class concept or definition of the Corrections Specialist 3 because your position was not solely responsible for fully managing DOC programs.

On May 8, 2009, the Department of Personnel received your request for a Director's review of DOC's allocation determination. The following summarizes the viewpoints of the employees involved in the review, as well as DOC's:

Summary of Employees' (Ackerman, Klemme, Gibbs, and Dobson) Perspectives

The employees assert they manage several programs at their respective institutions. While the employees acknowledge that a manager has oversight of these programs at DOC Headquarters, they indicate their positions coordinate the programs for each facility. The employees note that instead of managing one program at Headquarters, they have responsibility for managing several programs located at the facilities. As examples, the employees contend their positions have responsibility for managing the Public Disclosure Program at the facility and serve as Legal Liaison Officer and Public Information Officer. The employees emphasize that their positions have decision making and signature authority for programs at the facility, as well as the responsibility of being liable for decisions. The employees assert they are also responsible for ensuring that operational inspections and security audits occur to be in compliance with American Correctional Association (ACA) standards, policies, directives, operational memorandums, laws and rules. The employees state that their positions have become very technical and require expertise relating to ACA standards and relating laws and policies. The employees indicate that their supervisors (the Superintendents) support reallocation, and they believe their positions should be reallocated to a higher-level classification.

Summary of DOC's Reasoning

DOC acknowledges the employees do an excellent job handling a large volume of work at each facility. DOC further acknowledges the employees have duties and responsibilities that may touch some of the correctional programs. However, DOC contends the employees have been designated as facility coordinators for these programs. Accordingly, DOC asserts the employees coordinate certain aspects of the programs and related processes but do not have

sole responsibility for fully managing the programs. Instead, DOC contends the employees support programs managed by the Superintendent or other delegated managers with ultimate responsibility. DOC describes the majority of tasks as coordinating events, gathering documents, and tracking processes, which require knowledge about DOC policies and each respective facility. As a result, DOC asserts the duties and responsibilities assigned to the employees' positions do not fit the class series concept or definition of the Correctional Specialist 3 classification. DOC indicates that the employees serve as assistants to the Superintendents regarding administrative matters at each facility, considered a major operating location. DOC states that the professional level duties have been delegated to the employees' positions by each of their Superintendents. Therefore, DOC contends the employees' positions are appropriately allocated to the Administrative Assistant 4 classification.

Rationale for Director's Determination

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. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

The Position Objective on the October 15, 2008 PDF includes the following (Exhibit B-2):

This position interprets and explains applicable laws, rules, regulations, policies, and procedures; monitors program activities for compliance; reviews/develops operational memorandums relevant to assigned program areas; and is knowledgeable of directives, policies, operational memorandums, WACs, and RCWs. Specifically, this position serves as the facility Legal Liaison Officer (LLO) to the Attorney General's Office and functions as the assistant to the Superintendent to fulfill and support DOC's mission to improve public safety. In addition, this position serves as the Public Disclosure Coordinator (PDC), Public Information Officer (PIO), and member of the Senior Managers/Associates team.

A summary of the Key Work Activities listed on the PDF includes the following (Exhibit B-2):

- 25% Function as the Legal Liaison Officer (LLO) for the facility and conduit between the Attorney General's Office (AGO) and facility staff. Advise staff and/or seek advice from AGO for staff on work related legal issues. Coordinate information regarding litigation filed against facility and/or staff; review legal documents to determine necessary action. Interpret policies, WACs, and RCWs, and communication from the AGO. Assign and ensure discovery production requirements are met. Respond to request for documents from AGO Investigators and ensure preservation orders are issued and required checklists are submitted by due dates.

During the Director's review conference you and the other employees provided examples of LLO duties, such as providing documents to the AGO requested through the discovery process and informing the AGO about practices followed at the institution. You indicated that you serve as the conduit for information the AGO needs to defend a tort claim. You stated that you prepare preservation orders and send them to staff under your signature, as well as review information submitted by staff in response to a discovery request and send the information to the AGO.

You also explained that each institution receives a list of tort claims filed with the Office of Financial Management (OFM) and that you assign investigations based on staff most familiar with the content of the claim. You and the other employees gave examples of performing investigations by getting statements from staff and offenders or taking pictures of an area relating to a claim. You also indicated that you review and finalize investigations for completeness before the Superintendent signs the finalized version and forwards to OFM.

DOC noted a distinction between conducting an investigation and asking the individuals with knowledge of an incident to respond to a list of questions presented. You indicated that you determine what questions need to be asked and who needs to be involved and that you recommend whether to approve or deny a claim. You and the other employees acknowledged that you do not make decisions on all tort claims and that the Superintendent signs the investigation when there is a monetary impact.

- 25% Function as the Public Disclosure Coordinator (PDC) responsible for disclosing institution records to the public, media, attorneys, staff, and offenders in compliance with the Public Records Act, and other applicable statutes, policies, and procedures. Search and screen all records to determine if statutorily exempt in whole or part, notify any affected parties, and consider DOC safety and security concerns regarding confidential information prior to disclosing any record. Coordinate with DOC's Public Disclosure Unit (located at Headquarters), other Public Disclosure Coordinators statewide, the AGO, and others involved in the disclosure process.

You included the agency's Policy DOC 280.510 regarding Public Disclosure of Records, dated 3/13/07, which describes, in part, the following (Exhibit B-6):

C. The PDCs will:

- 1. Respond to public disclosure requests that fall within their assigned area of responsibility,*
- 2. Coordinate response to requests that involve more than one location, if they are the coordinator with the majority of the responsive documents,*
- 3. Communicate local procedures for processing requests for public record,*
- 4. Attend statewide training and provide training to appropriate staff in their local area, and*

5. *Track and report the receipt and disposition of public disclosure requests on a monthly basis.*

After the Director's review conference, Ms. Cooley provided an updated version of Policy DOC 280.510, dated 8/14/09, which was after the period of time DOC reviewed in reaching the April 14, 2009 allocation decision (Exhibit B-8). However, both versions of the policy indicate that the PDCs will be designated by the Superintendent for each Prison. In addition, an email dated May 17, 2005, from Public Disclosure Manager Denise Vaughan includes an attachment identifying Public Disclosure Specialists (PDS) assigned to each area as a resource for PDCs located at the facilities (Exhibit B-8).

15% Supervise an Administrative Assistant 4 position responsible for ensuring compliance with ACA standards for Adult Corrections. This includes ensuring standards' audit file documentation is current and reports are submitted to Headquarters as required. Supervise an Administrative Assistant 3 position responsible for coordinating the local review of draft DOC policies, ensuring local operational memorandums are completed as required. The AA 3 position also serves as backup Public Disclosure Coordinator, Legal Liaison Officer, and Public Information Officer. Conduct monthly meetings and annual evaluations, review training requests, authorize leave requests, and monitor any leave issues.

10% Function as the Public Information Officer (PIO) responding to inquiries from the public, media, special interest groups, the community, and other agencies. Arrange media access and coordinate staff and offender media interviews. Prepare information for release to the media/public. Conduct facility tours. Serve as a member of the Command Staff during incidents that require using the Incident Command System (ICS).

You and the other employees identified as being a PIO gave examples of responding to calls from the media and arranging clearance for the media to enter the facility. However, you indicated the Superintendent or Incident Commander sign any press releases. You also noted that you represent the Superintendent and the facility through community events.

The prior PDF for your position, signed by you in November 2006 and Superintendent Carol Porter in January 2007, shows the majority of work involving duties and responsibilities as the Public Disclosure Coordinator and ACA/Audit Coordinator at WCCW (Exhibit B-3). During the Director's review conference you and the other employees indicated that the majority of duties did not change significantly from the 2006/2007 PDF to the one submitted for reallocation in 2008.

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. While examples of typical work identified in a class

specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

In addition to the AA 4 classification, DOC's HR Office reviewed several classifications including Program Assistant; Corrections Specialist 1, 2, and 3; Administrative Assistant 3 and 5; Program Specialist 2 and 3; Administrative Services Manager A and B; Communications Consultant 1, 2 and 3; and Program Manager A and B.

When considering the classifications related to programs, I reviewed the following definitions in the Department of Personnel's Glossary of Classification Terms:

Program. A specialized area with specific complex components and tasks that distinguish it from other programs (or the main body of an organization). A program is specific to a particular subject and has a specific mission, goals, and objectives. A program typically has an identifiable funding source and separate budget code.

The specific components and specialized tasks involve interpretation of policies, procedures and regulations, budget coordination/administration, independent functioning. Typically requires public contact relating specifically to program subject matter, clients, and participants. . . .

Program Manager. Duties involve authority over:

- Developing program goals and objectives.
- Developing timetables and work plans to achieve program goals and objectives.
- Developing program policies and procedures.
- Preparing program budgets, adjusting allotments and authorizing expenditures.
- Controlling allocation of program resources.
- Setting and adjusting program priorities.
- Evaluating program effectiveness.

<http://www.dop.wa.gov/CompClass/CompAndClassServices/Pages/HRProfessionalTools.aspx>

Although you coordinate functions at your facility affecting programs, such as Public Disclosure, your position has not been assigned the responsibility for managing the programs as a whole. Instead, your position has been delegated the authority to act on behalf of the Superintendent to ensure policies and procedures are followed and program functions are accomplished. Therefore, the **Program Specialist and Program Manager** classes are not the best fit for the breadth of duties and responsibilities assigned to your position.

Because your position responds to public disclosure requests, I also reviewed the Forms & Records Analyst 2 and 3 classifications, which include work with public disclosure . At the **Forms & Records Analyst 2** level, incumbents review and process routine requests for public records/public disclosure by locating and retrieving necessary records. At the **Forms & Records Analyst 3** level, incumbents provide management consultation and determinations on responses to public record requests. While some of your duties may align with the work performed by Forms & Records Analyst 3 positions, the primary focus of your position and majority of assignments extend beyond public disclosure.

The class series concept for the **Corrections Specialist** classes reads as follows:

Within the Department of Corrections, is responsible for various correctional programs as assigned, such as community service activities, institutional training, classification and treatment programs, offender grievances, institutional hearings, roster management for major institutions, contracted chemical dependency treatment services, deaf inmate program services, auditing of correctional programs, HQ intelligence and investigations, canine or; administers an investigative/intelligence operation at a major institution. Some positions may supervise lower level staff.

The definition for **Corrections Specialist 3** states the following:

This is the senior, specialist, or lead worker level of the series. Within the Department of Corrections, develops, coordinates, implements and/or evaluates various correctional program(s) as assigned. Prepares comprehensive reports and makes recommendations for management, identifies and projects trends, and monitors program expenditures for adherence to budgeted allocations. Positions in this class perform professional level duties covering one or more of the following correctional program areas: institutional training, CORE, COACH, offender grievances, institutional hearings (e.g., disciplinary, intensive management, administrative segregation), roster management for major institutions; administers an investigative/intelligence operation at a major institution, which may include other regional and community involvement.

Once again, your primary responsibilities include acting on behalf of the Superintendent to ensure policies and procedures are followed and program functions are carried out. This relates not only to public disclosure but also ACA standards. As such, your position does interpret laws, rules, regulations, policies and procedures, to ensure necessary functions occur and that the facility is in compliance. However, your position has not been assigned responsibility for a correctional program, as described in the class series concept and CS 3 definition. Therefore, the CS 3 is not the appropriate fit for your position.

The class series concept for the **Communication Consultant** classes indicates the following:

Positions in this series are involved in developing, editing and/or disseminating publications and a variety of communication and marketing materials as part of the overall public information function. This series also includes positions responsible for internal communications and strategic messaging, and positions serving as a spokesperson to the news media and the public.

While your position serves as the primary contact and you may respond to inquiries from the public or media on behalf of the Superintendent, the Superintendent has ultimate responsibility for any release of information to the news media. In addition, the primary focus of your position does not involve the work described by the Communication Consultant classes.

Rather, your representation of the Superintendent and the facility to the public is one aspect of your job that involves overall administrative support to the Superintendent.

The **Administrative Assistant 4** definition includes serving as “the assistant on administrative matters to the head of a state agency, the head of a major sub-division or major operating location of an agency . . .” The distinguishing characteristics include performing “higher-level administrative duties of a substantive nature that are appropriate to be performed by the supervisor, manager, administrator, or professional level employee but have been delegated to the administrative assistant to perform.”

While I considered the Administrative Services Manager and AA 5 classifications, I concluded your duties and responsibilities best aligned with the AA 4 definition of serving as the assistant to the head of a major operating location of an agency, which in this case is WCCW.

It is clear the work you perform is highly valued and recognized by your Superintendent, as well as the agency. A position's allocation does not diminish the quality of work performed and is not a reflection of performance. Rather, an allocation is based on the majority of work assigned to a position. As a whole, your duties involve high level administrative support to the Superintendent of WCCW. Of the available classifications, the Administrative Assistant 4 best encompasses the totality of your position's duties and responsibilities.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 753-0139.

If no further action is taken, the Director's determination becomes final.

c: Tina Cooley, DOC
Joanne Harmon, DOC
Lisa Skriletz, DOP

Enclosure: List of Exhibits

Billie Ackerman v. Dept. of Corrections (DOC)

ALLO-09-028

List of Exhibits

A. Billie J. Ackerman Exhibits

1. Request for Director's Review Form with attachment for section V. May 8, 2009
2. Allocation decision letter dated April 14, 2009 , from HR Director Donna J. Haley
3. Position Description form, dated October 15, 2008
4. Class Specification: Program Manager B, 107S
5. Class Specification: Corrections Specialist 3, 350C
6. DOC 280.510, Public Disclosure of Records
7. DOC 130.200, Lawsuit Processing/Staff Liability Protection
8. DOC 150.100, Public Information and Media Relations
9. Examples of decision – making and signature authority. Exhibits 1 – 4
 1. *Correspondence for Public Disclosure Requests*
 2. *Management/Decision-making authority (media information requests)*
 3. *Management/Decision-making authority (legal matters)*
 4. *Notice of Institution Visitor forms (signature authority)*

B. Dept. of Corrections Exhibits

Cover letter with list of Exhibits and explanation.

1. September 8, 2008 letter to Eldon Vail, Secretary, regarding request for reclassification of prison AA4 positions
2. Position Description form, dated October 15, 2008, including organizational chart
3. January 2007 Position Description
4. Allocation decision letter dated April 14, 2009 , from HR Director Donna J. Haley
5. DOP Class Specifications:
 - Administrative Assistant 3 105G
 - Administrative Assistant 4 105H
 - Administrative Assistant 5 105I
 - Corrections Specialist 1 350A
 - Corrections Specialist 2 350B
 - Corrections Specialist 3 350C
 - Program Assistant 107M
 - Program Specialist 2 107I
 - Program Specialist 3 107J
 - Administrative Services Manager A 106E
 - Administrative Services Manager B 106F
 - Communications Consultant 1 197I
 - Communications Consultant 2 197J
 - Communications Consultant 3 197K
 - Program Manager A 107R
 - Program Manager B 107S
6. DOC Policy #280.510 Public Disclosure of Records
7. DOC Policy #110.100 Prison Management Expectations
8. DOC's Public Disclosure resource documents with Nov. 10, 2008 cover letter

C. Forms & Records Analyst 2 & 3 class specifications