

STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT
STATE HUMAN RESOURCES | DIRECTOR'S REVIEW PROGRAM
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July 17, 2014

TO: Connie Goff, PHR
Rules and Appeals Section Chief
State Human Resources Division

FROM: Kris Brophy, SPHR
Director's Review Program Investigator

SUBJECT: Kevin Ritzer v. Department of Licensing (DOL)
Allocation Review Request ALLO-13-083

This position review was based on the work performed for the six-month period prior to October 11, 2012, the date DOL Human Resources (DOL HR) received Mr. Ritzer's request for a position review. As the Director's Review Investigator, I carefully considered all of the documentation in the file, the exhibits, and the written comments provided by both parties. Based on my review and analysis of Mr. Ritzer's assigned duties and responsibilities, I conclude his position is properly allocated to the Customer Service Specialist 2 (CSS 2) classification.

Background

On October 11, 2012, DOL HR received Mr. Ritzer's Position Review Request (PRR) form, requesting that his Customer Service Specialist 2 (CSS 2) position be reallocated to Legal Secretary 1 (LS 1) (Exhibit B-2).

DOL HR conducted a position review and notified Mr. Ritzer on September 12, 2013 that his position was properly allocated to the CSS 2 class (Exhibit B-1).

On October 10, 2013, State Human Resources, OFM received Mr. Ritzer's request for a Director's review of DOL's allocation determination (Exhibit A-1).

On May 22, 2014, I conducted a Director's review conference with Kevin Ritzer. Also present for the conference were Toni Hood, Hearings and Interviews Manager, DOL; Gynger Steele, Hearings & Interviews Assistant Administrator, DOL; Rita Nucciarone, CSS 4, DOL; Brett Alongi, HRC, DOL; and Mollie Clinton, HR Consultant.

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).

Duties and Responsibilities

Mr. Ritzer is a member of the Hearings and Interviews Unit located within the Programs and Services Division of DOL. Mr. Ritzer reported to Ms. Rita Nucciarone, Customer Service Specialist 4 during the review period.

Mr. Ritzer's major job duties are summarized from the PRR as follows:

75% **Duty:** Liaison between Assistant Attorney General (AAGs) and members of the campus community, opposing counsel, clients and other interested parties to facilitate the completion of case-related tasks or processes related to DOL administrative hearings, Superior Court appeals and Court of Appeal cases. Draft correspondence to courts and/or other attorneys, legal notices and forms; and maintain records regarding status of Superior Court appeals, administrative hearings and Court of Appeals cases.

Plan, schedule, initiate and carry out legal form preparation, correspondence, clerical processing, filing and notifications necessary for presentation by AAGs in Superior Court and Hearing Examiners in DOL administrative hearings; examine documents and affidavits to ensure that all necessary legal steps have been covered, and that all legal deadlines and due process requirements are met.

When necessary, advise AAGs and Hearing Examiners of special items needing their attention. Schedule hearings, coordinate dockets with availability of attorneys and Hearing Examiners for Superior Court cases that are remanded back to DOL.

As a teleconference hearings operator for the Hearing Examiners, complete arrangements for witness appearance at hearings to minimize their loss of time, using knowledge of specific hearing schedules.

Monitor progress of cases assigned to AAGs and Hearing Examiners in order to facilitate adherence to deadlines; which if not met, could result in adverse actions.

Prepare hearing exhibits for Superior Court judges, AAG's and opposing counsel.

Select, certify and mail exhibits to parties (petitioners, opposing counsel, AAGs, Superior Court judges and clerk(s) in advance, according to the nature of case, select stock paragraphs, interpolate or originate new ones as needed; submit to supervisor for approval.

Study/review case files, make sure all required documents are included and are complete and accurate, and review proposed court orders, affidavits and declarations for use by judges and AAGs in civil actions.

Responsible for calling other attorneys and parties to legal actions (Superior Court appeals and administrative hearing(s) to obtain technical information assist AAGs

and Hearing Examiners with scheduling.

Designated records custodian.

- 10% Process interview and hearing requests within minimal timelines, to determine eligibility for hearing/interview in the following areas: Habitual Traffic Offender, Commercial Drivers License cases, Conditional Status, Continuing Offenses, DUI/Refusals, Alcohol/Chemical Dependency, Financial Responsibility, Fraud, Restricted License denial, and Medical.

Monitor and maintain files for incomplete requests. Upon receipt of a valid hearing/interview request, retrieve the necessary folder information from the Imaging system and distribute to the appropriate region for scheduling. Independently compose written response and utilize the Letters program to provide correspondence to drivers and attorneys in regards to scheduled hearings/interviews.

Upon receipt of the final decisions, update the drive record accordingly and generate and mail appropriate correspondence.

- 10% Research, evaluate and interpret drive records to provide support to Hearings staff, regarding all hearings/interviews related matters.

- 5% Handle all requests for copies of audio recorded hearings, to include Public Disclosure Requests and subpoenas. I process the Hearings Unit's portion of Ignition Interlock License applications, update Letters program attorney database and process incoming/outgoing mail. Also perform other duties as required.

Supervisor's Comments

Ms. Nucciarone completed the supervisor's portion of the PRR and indicates that Mr. Ritzer's description of his assigned duties and responsibilities is accurate and complete.

Summary of Mr. Ritzer's Perspective

Mr. Ritzer asserts the legal skills and knowledge his position requires to fulfill the duties of his position supporting the Superior Court appeals desk fully meets the requirements of the Legal Secretary 1 class. In his comments he states that his position has had increasing responsibility to initiate work to relieve Hearing Examiners and Assistant Attorney(s) Generals (AAG's) of many of the technical aspects of their legal practice activities.

Mr. Ritzer asserts he spends the majority of his time dealing with Superior Court appeals that are handled in the same manner as an appeal from a decision of a court of limited jurisdiction. He asserts that he acts as a direct liaison and often personal assistant to the AAGs assigned to process Driver's appeals, and that he performs related technical and secretarial work for DOL Hearing Examiners who he asserts are equivalent to Administrative Law judges or Review Judges.

For example, Mr. Ritzer asserts he performs direct legal secretarial support to Hearing Examiners in preparation for hearings with the Superior Court. This includes working as liaison

to the agency's assigned AAGs and providing support to facilitate the case as it is processed and heard by the Superior court. Mr. Ritzer asserts he plans, schedules, initiates and carries out legal form preparation, correspondence, clerical processing, filing and notifications necessary for presentation by AAGs in Superior Court and Hearing Examiners in DOL administrative hearings. He also examines documents and affidavits to ensure that all necessary legal steps have been covered, and that all legal deadlines and due process requirements are met.

Mr. Ritzer asserts that because the Hearings unit does not have a case management system his position has assumed increasing responsibility for performing complex legal secretarial duties. In addition, he asserts other agencies which have positions which perform similar duties are allocated to the Legal Secretary 1 class.

For these reasons, Mr. Ritzer asserts his position should be reallocated to the Legal Secretary 1 class.

Summary of DOL's reasoning

DOL asserts the scope of Mr. Ritzer's work does not meet the definition and distinguishing characteristics of the Legal Secretary 1 class. DOL contends Mr. Ritzer's position is not directly assigned to or supervised by an attorney. DOL asserts that Mr. Ritzer's position is assigned to the Hearings and Interviews processing unit and that his position reports to the CSS 4 responsible for managing the unit.

In addition, DOL asserts that his position does not provide personal assistance or ongoing legal technical and/or secretarial work to an AAG. Rather, DOL asserts Mr. Ritzer supplies AAGs for the Attorney General's division with DOL drive records and hearings case information needed to represent DOL on appeal to the Superior Court.

DOL contends the majority of Mr. Ritzer's job duties are consistent with the Definition and job duties described in the Customer Service Specialist 2 class. DOL asserts that as a representative of DOL, Mr. Ritzer acts as a resource and liaison on behalf of the DOL to provide case files and information regarding records, files, processing, policies and procedures which is consistent with the CSS 2 level class. For these reasons, DOL asserts Mr. Ritzer's position is properly allocated.

Comparison of Duties

When comparing the assignment of work and level of responsibility to the available class specifications, the Class Series Concept (if one exists) followed by the 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.

Comparison of Duties to Legal Secretary 1

The Definition for this class states:

Performs legal technical and secretarial work for an attorney, Administrative Law Judge, Industrial Appeals Judge, review judge or equivalent. Acts as a liaison

between Assistant Attorney(s) General and campus personnel, opposing counsel, court and/or judicial department personnel and/or members of the general public.

The Distinguishing Characteristics for this class states:

This class differs from general clerical and secretarial classes in that Legal Secretaries work more as personal assistants to attorneys, Administrative Law Judges, Industrial Appeals Judges, review judges or equivalent to whom assigned. They also have greater responsibility than other clerical support classes to initiate their work in relieving the attorney, Administrative Law Judge, Industrial Appeals Judge, review judge or equivalent of technical aspects of legal practice. Performs complex legal secretarial duties; drafts documents and correspondence using legal, medical and/or other technical terminology; checks legal citations and references. [Emphasis added]

Mr. Ritzer's position does not meet the definition and distinguishing characteristics of the Legal Secretary 1 class. Mr. Ritzer's position does not provide direct legal technical and secretarial support to the agency's Hearing Examiners as intended. His position does not report to nor function as a personal assistant to an attorney as stated in the Distinguishing Characteristics of this class. Rather, his position provides specialized technical support to the agency's Superior Court appeals process which includes interacting and working internally with the agency's Hearing Examiners and externally with the AAGs representing DOL on appeal.

For example, Mr. Ritzer's position is assigned to the Hearings and Interviews processing unit. Rather than reporting directly to an attorney, his position reports to Ms. Nucciarone, the CSS 4 responsible for managing the Hearings and Interviews unit. Mr. Ritzer provides centralized assistance and technical processing support to the agency's administrative hearings process for Superior court appeals. Mr. Ritzer provides AAGs for the Attorney General's division with DOL drive records and hearings information needed to represent DOL on appeal to the Superior Court.

Mr. Ritzer's position has not been assigned primary responsibility for performing direct technical legal secretarial duties for an attorney such as drafting documents and correspondence using legal, medical and/or other technical terminology. His duties do not require him to check legal citations and references.

Instead, Mr. Ritzer performs a variety of technical tasks in support of the Superior Court appeals desk. This includes working with Assistant Attorney General (AAGs) and members of the campus community, opposing counsel, clients and other interested parties to facilitate the completion of case-related tasks or processes related to DOL administrative hearings, Superior Court appeals and Court of Appeals cases. Mr. Ritzer drafts correspondence to courts and/or attorneys, legal notices and forms. He maintains records regarding status of Superior Court appeals, administrative hearings and Court of Appeals cases. He also monitors cases assigned to AAGs and Hearing Examiners to ensure deadlines are met. In this role Mr. Ritzer prepares exhibits for Superior Court judges, AAGs and opposing counsels.

Mr. Ritzer's role working as a liaison between the parties is performed within the context of providing administrative technical support to the agency's Superior Court appeal process rather than performing direct legal secretarial support to an attorney. For example, Mr. Ritzer provides technical administrative support to AAGs to facilitate the processing of the appeal with the Superior court.

His position plans, schedules, initiates and carries out legal form preparation, correspondence, clerical processing, filing and notifications necessary for presentation by AAGs in Superior Court and Hearing Examiners in DOL administrative hearings. He examines documents and affidavits to ensure that all necessary legal steps have been covered, and that all legal deadlines and due process requirements are met. He follows prescribed standards and templates to create generally standard correspondence and other documentation.

He also selects, certifies and mails exhibits to parties (petitioners, opposing counsel, AAGs, Superior Court judges and clerk(s) according to case. He also studies and reviews case files to make sure all required documents are included and are complete and accurate. He also reviews proposed court orders, affidavits and declarations for use by judges and AAGs in civil actions.

Thus, while portions of his work overlap with certain aspects of legal secretarial work, the thrust and focus of his position and the majority of his assigned work duties as a whole do not reach the primary allocating factors required for allocation to this class. For these reasons Mr. Ritzer's position should not be reallocated to the Legal Secretary 1 class.

Comparison of Duties to Customer Service Specialist series

The class series concept for the Customer Service Specialist series states:

Positions in this series provide assistance and problem resolution to agency clients/customers and are located in a designated customer service program. The intent of the series is to assist clients/customers in identifying agency processes and procedures, resolving client/customer problems related to agency programs and interpreting agency related laws, policies and procedures. Positions at all levels may be assigned lead or supervisory responsibility over lower level staff.

This series is not clerical in nature. Clerical support duties are incidental to the total work assignment (less than 10%). Clerical support, for the purposes of this series, includes tasks such as maintaining filing systems, maintaining logs, updating computer or manual data systems, office and telephone reception, completing office forms, compiling and completing recurrent reports, performing routine typing, copy work and preparing mailings.

This occupational category is considered a technical occupational category. Positions assigned to this occupational category have authority to accept, grant or deny agency services or may mediate between the business of the agency and the client (example: Attorney General's Consumer Protection Unit). Some positions may train and provide leadership to volunteers.

Mr. Ritzer's position fits within the class series concept for the Customer Service Specialist series. He performs specialized technical functions within the Hearings and Interviews Unit of the DOL's Programs and Services Division. His position has responsibility for processing administrative hearing cases to Superior Court.

Mr. Ritzer's duties are generally consistent with the class series concept, and his position should be allocated to a class within the Customer Service Specialist series.

Comparison of Duties to Customer Service Specialist 3 (CSS 3)

The Definition for the CSS 3 class states:

Serves as a senior customer services specialist handling complex, cross-agency customer problems. Mentors and trains lower level staff in aspects of client/customer relations and problem resolution. Interprets agency-related laws, policies and procedures.

There are no Distinguishing Characteristics for this class; therefore we can look to the typical work statements for guidance. The typical work statements for this class state:

Consults with lower level customer service staff on multi-dimensional process/procedure problems.

Identifies and recommends change to agency policies and procedures that hamper customer access to agency services.

Coordinates customer service training.

The CSS 3 class describes positions which perform senior-level customer service specialist work handling complex, multi-dimensional, cross-agency customer problems, mentoring and training lower-level staff, and interpreting agency-related laws, policies and procedures in completing assigned tasks. The overall scope, level of responsibility, and majority of duties assigned to Mr. Ritzer's position do not fully meet this intent.

Although a portion of Mr. Ritzer's position involves performing senior-level customer service specialist work, his position does not fully have the breadth or scope of handling complex multi-dimensional, cross-agency customer problems for a majority of his time as anticipated at the CSS 3 level. Mr. Ritzer's duties do not involve resolving complex or unusual situations that fall outside of the regular and ongoing scope of his Superior Court appeal processing functions.

For example, Mr. Ritzer has primary responsibility for serving as the designated customer service specialist processing drivers' Superior Court appeals. Following receipt of the hearing request, the process includes verifying the application and other documents, preparing the hearing file, notifying all parties and forwarding the request to the Hearing Schedulers to schedule for the Hearing Examiners to process. Mr. Ritzer does provide specialized technical assistance to drivers and their attorneys which require extensive knowledge of RCWs, WACs, DOL policies and procedures, and federal and state regulations.

However, Mr. Ritzer does not mentor and train lower level staff and internal customers in various aspects of client/customer relations and problem resolution, and multi-dimensional process or procedural problems as a primary function of his position. He does provide some cross-training for others within his unit and other units regarding the specific aspects of his duties. This also includes educating internal customers, court personnel, attorneys, drivers, and law enforcement on complicated driver licensing laws along with DOL policies and procedures as they pertain to the Superior Court appeals process and aspects of the driver's records. However, this is not a formal assignment and does not reach the scope of responsibility intended by this class. The overall scope and focus of this work are more appropriately aligned within the CSS 2 class.

Thus, while aspects of his work and a portion of his assigned duties reach senior-level responsibility as required by this class, the thrust of his position, and the majority of his assigned work duties do not fully reach the primary allocating factors required for allocation to the CSS 3 class.

Comparison of Duties to Customer Service Specialist 2

The Definition for the Customer Service Specialist 2 (CSS 2) class states:

Independently resolves complaints, inquiries and client/customer service problems while maintaining appropriate confidentiality. Provides agency interpretation and applies knowledge of laws, regulations, and processes in the resolution of inquiries, complaints and problems.

The typical work statements for this class state:

Acts as liaison between clients/customers and agency; gives presentations and offers assistance to other State and Federal agencies;

Independently resolves client/customer problems by identifying the issues, determining procedural steps necessary to bring resolution, working with program staff to implement resolution, and communicating results to the client/customer;

Creates and manages customer profiles and maintains integrity of the data and information while delivering specialized services.

The majority of Mr. Ritzer's job duties are consistent with the job duties described in the Definition of the Customer Service Specialist 2 class. Mr. Ritzer works independently, interprets information, and applies DOL laws, rules, and internal processes and procedures while performing his work which includes answering inquiries and resolving problems from internal staff and external clients including, attorneys, court staff, and law enforcement personnel.

The majority of his duties and responsibilities are focused on reviewing and processing generally recurring Superior Court appeals consistent with CSS 2 level responsibility. This involves independently reviewing and preparing administrative hearing case files and other documents for appeal to higher level courts based on the interpretation of information, the language of the law, and the agency's procedures. He also uses his knowledge of driver licensing policies and procedures to review and process accurate records of the driver's sanctions or other actions following resolution of the appeals.

Mr. Ritzer possesses the depth of knowledge needed to perform his work independently and to resolve problems within the scope of his area of responsibility. For example, Mr. Ritzer assists other Department of Licensing staff and external parties in understanding agency-related policies, procedures and laws. This also includes other DOL departments as well as the driver's attorneys and AAGs representing DOL on appeal. He interprets information and applies his knowledge of applicable laws and the administrative requirements and procedures to facilitate that process.

The overall scope of his duties and responsibilities with respect to his primary job duties are

encompassed by the definition of the CSS 2 class.

Additionally, the typical work statements for this class state that incumbents at this level independently resolve customer complaints. Positions at this level also identify issues and procedural steps needed to resolve the issues, implement resolutions, communicate results to customers, and maintain the integrity of data and information. The majority of Mr. Ritzer's duties and responsibilities are consistent with the scope of responsibility described by the typical work of the CSS 2 class.

Most positions within the civil service system occasionally perform duties that appear in more than one classification. 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).

In total, the primary purpose of Mr. Ritzer's position is to process Superior Court appeals based on the interpretation of information and the language of the law and the agency's hearings process. The overall scope and focus of his position's responsibilities fall within the Customer Service Specialist series, and his duties are best described by the Customer Service Specialist 2 class.

Mr. Ritzer's position is properly allocated to the Customer Service Specialist 2 class.

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 PO Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the Raad Building, 128 10th Avenue SW, Olympia, Washington. The main telephone number is (360) 407-4101, and the fax number is (360) 586-4694.

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

c: Kevin Ritzer, DOL
Brett Alongi, DOL
Lisa Skriletz, OFM

Enclosure: List of Exhibits

KEVIN RITZER v DOL

ALLO-13-083

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