

December 29, 2009

TO: Lowell Bushey

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

SUBJECT: Lowell Bushey v. Washington State University (WSU)
Remedial Action REMA-09-003

On July 30, 2009, the Department of Personnel received your request for a Director's review asking the Director to take remedial action to confer permanent status. On August 4, 2009, I requested additional information from WSU's Human Resources (HR) Office regarding your temporary employment history with WSU. On September 3, 2009, HR Consultant Ariane Mondragón provided documentation indicating your initial non-student, temporary/hourly appointment began on June 19, 2000 (Exhibit 4, Enclosure 2). Ms. Mondragón also provided Temporary Employee Daily Activity Reports documenting your work hours for each pay period between June 16, 2008 and July 31, 2009 (Exhibit 4, Enclosures 4 and 5). On December 10, 2009, Ms. Mondragón provided additional information to clarify the time records provided, including the pay period of January 16-31, 2009 (Exhibit 12). At my request, Ms. Mondragón also provided a copy of WSU's Conditions for Temporary Employment provided for one of your temporary positions, which you signed on January 17, 2008 (Exhibit 11-a).

WAC 357-19-450 provides, in part, the following:

For individuals in higher education temporary appointments under the provisions of WAC [357-19-435](#)(1), the director may take remedial action to confer permanent status, set base salary, and establish seniority when it is determined that the following conditions exist:

(1) The employee has worked in one or more positions for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or October 1, 1989, whichever is later. (Overtime and time worked as a student employee under the provisions of WAC [357-04-040](#) are not counted in the one thousand fifty hours.)

WAC 357-19-448 provides, in part, that "[r]equests for remedial action must be received in writing within thirty calendar days as provided in chapter [357-49](#) WAC. . . .

WAC 357-49-010(5) provides, in part, that an individual may make a request for remedial action "within thirty calendar days of the date the individual could reasonably be expected to have knowledge of the action giving rise to violation of the nonpermanent appointment or temporary appointment rules."

Director's Determination

As the Director's designee, I carefully considered all of the documentation and exhibits in the file. Although the number of non-overtime hours you worked exceeded 1,050 hours during the twelve consecutive month period under review, your request for a Director's review was untimely. As a result, I am denying your request for remedial action to confer permanent status.

Rationale for Determination

According to WAC 357-49-010(5), the request for remedial action must be made "within thirty calendar days of the date the individual could reasonably be expected to have knowledge of the action giving rise to violation of the nonpermanent appointment or temporary appointment rules." To determine the timeliness of your request, I reviewed the time records to see when your total non-overtime work hours exceeded 1,050 hours.

Your original hire date for your non-student, temporary/hourly appointment was June 19, 2000. According to WAC 357-19-450(1), an employee has to work more than 1,050 hours "in any twelve consecutive month period since the original hire date . . ." for the Director to consider remedial action to confer permanent status. In your case, the twelve consecutive month period under review is June 19, 2008 through June 18, 2009. During this time period, you worked in two non-student, temporary/hourly positions. Position #107227 was in Student Support Services (Exhibit 4, Enclosure 4), and Position #88788 was in Multicultural Student Services (Exhibit 4, Enclosure 5).

Based on the time records, the following summarizes your total work hours between June 19, 2008 and March 31, 2009, for both programs including overtime hours:

Pay Period	Total Hours
June 19-30, 2008	39.50
July 1-15, 2008	58.50
July 16-31, 2008	58.50
August 1-15, 2008	0.00
August 16-31, 2008	15.50
September 1-15, 2008	84.33
September 16-30, 2008	105.50
October 1-15, 2008	101.00
October 16-31, 2008	109.50
November 1-15, 2008	97.00
November 16-30, 2008	58.00
December 1-15, 2008	106.00

December 16-31, 2008	13.00
January 1-15, 2009	5.00
January 16-31, 2009	65.50
February 1-15, 2009	89.00
February 16-28, 2009	18.00
March 1-15, 2009	94.00
March 16-31, 2009	68.50
Total	1186.33

To figure out the non-overtime hours worked, I broke down the hours reported on both sets of time records for each work week. The time records indicate that you worked a variety of hours on any given day during the week. Ms. Mondragón confirmed that the work week at WSU is Sunday through Saturday. The following summarizes your work hours for each week between June 19, 2008 and March 31, 2009:

Work Week	Non-overtime Hours	Overtime	Total Hours
June 19–21, 2008	6.00	0.00	6.00
June 22–28, 2008	24.50	0.00	24.50
June 29–July 5, 2008	23.00	0.00	23.00
July 6 -12, 2008	29.50	0.00	29.50
July 13 -19, 2008	37.00	0.00	37.00
July 20 -26, 2008	36.50	0.00	36.50
July 27 –August 2, 2008	0.00	0.00	0.00
August 3 -9, 2008	0.00	0.00	00.00
August 10 -16, 2008	3.00	0.00	3.00
August 17 -23, 2008	12.50	0.00	12.50
August 24 -30, 2008	0.00	0.00	0.00
August 31 –September 6, 2008	21.00	0.00	21.00
September 7-13, 2008	40.00	10.33	50.33
September 14-20, 2008	40.00	9.00	49.00
September 21-27, 2008	40.00	2.50	42.50
September 28- October 4, 2008	40.00	14.00	54.00
October 5-11, 2008	40.00	0.50	40.50
October 12-18, 2008	40.00	6.50	46.50
October 19-25, 2008	40.00	11.00	51.00
October 26-November 1, 2008	40.00	5.50	45.50
November 2-8, 2008	40.00	9.50	49.50
November 9-15, 2008	40.00	7.50	47.50
November 16-22, 2008	40.00	6.50	46.50
November 23-29, 2008	7.50	0.00	7.50
November 30- December 6, 2008	40.00	5.00	45.00
December 7-13, 2008	40.00	13.50	53.50
December 14-20, 2008	24.50	0.00	24.50
December 21-27, 2008	0.00	0.00	0.00
December 28-January 3, 2009	0.00	0.00	0.00

January 4-10, 2009	0.00	0.00	0.00
January 11-17, 2009	5.00	0.00	5.00
January 18-24, 2009	25.50	0.00	25.50
January 25-31, 2009	40.00	0.00	40.00
February 1-7, 2009	40.00	7.00	47.00
February 8-14, 2009	40.00	2.00	42.00
February 15-21, 2009	7.00	0.00	7.00
February 22-28, 2009	11.00	0.00	11.00
March 1-7, 2009	40.00	7.00	47.00
March 8-14, 2009	40.00	7.00	47.00
March 15-21, 2009	0.00	0.00	0.00
March 22-28, 2009	40.00	4.00	44.00
March 29-31, 2009	24.50	0.00	24.50
Total	1058.00	128.33	1186.33

The total non-overtime hours you worked exceeded 1,050 hours on March 31, 2009. You signed the timesheets for each pay period for both positions. Additionally, you held temporary positions with WSU since 2000, and the Conditions for Temporary Employment document supports your knowledge of the rules regarding temporary employment. Because you reasonably had knowledge of the hours you worked through March 31, 2009, and you signed the timesheet for that pay period on April 1, 2009, the deadline for requesting review elapsed on May 1, 2009. Since your request was not received until July 30, 2009, it was untimely. Therefore, the matter is closed.

WSU's HR staff should take the appropriate steps to review the notification process to ensure that supervisors are aware in a timely manner that temporary employees are approaching 1,050 hours.

Appeal Rights

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board (board) by filing written exceptions to the Director's determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the board within thirty (30) calendar days after service of the Director's determination. 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.

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

c: Ariane Mondragón, WSU HR Office

Enclosure: List of Exhibits

Lowell Bushey v. WSU

REMA-09-003

List of Exhibits

1. Director's Review Form, received July 30, 2009
2. Letter of request from Lowell Bushey, received July 30, 2009
3. August 4, 2009 from Teresa Parsons to parties requesting additional information.
4. Response letter from Ariane Mondragon, WSU, September 3, 2009, with the following enclosures:
 - 1) DEPPS System Appointment for Student Employment for Lowell Bushey
 - 2) DEPPS System Appointment for Non-Student, Temporary Employment for Lowell Bushey
 - 3) Temporary Employment System Screen for Lowell Bushey
 - 4) Time records for Position #107227
 - 5) Time records for Position #88788
5. November 10, 2009 email chain with clarifying information.
6. November 19, 2009 email from Teresa Parsons requesting additional clarification.
7. November 24, 2009 email response from Ariane Mondragón, WSU.
8. November 24, 2009 email from Teresa Parsons requesting additional clarification.
9. November 25, 2009 email from Ariane Mondragón regarding overtime hours.
10. December 1, 2009 email from Ariane Mondragón with update on requested information.
11. December 4, 2009 email from Ariane Mondragón with attached:
 - a. Conditions of Temporary Employment
12. December 10, 2009 email from Ariane Mondragón with attached:
 - a. Payroll Expense Detail from April 2008
 - b. Time slip for January 16-31, 2009