

**STATE OF WASHINGTON**  
**OFFICE OF FINANCIAL MANAGEMENT**  
STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM  
*P.O. Box 40911 · Olympia, WA 98504-0911 · (360) 407-4101 · FAX (360) 586-4694*

October 2, 2014

TO: Randall Myers

FROM: Holly Platz, SPHR  
Director's Review Program Investigator

SUBJECT: Randall Myers v. Seattle Community College (SCC)  
Remedial Action REMA-14-001

On July 3, 2014, the State Human Resources office (SHR) received your request for a Director's review of your hourly position asking the Director to take remedial action to confer permanent status (Exhibit 1). You included a cost report showing your hours of work from June 15, 2013 through June 15, 2014 (Exhibit 2).

On August 6, 2014, SCC's Office of Human Resources provided a written response to your request and provided time records beginning October 23, 2012 through June 30, 2014 (Exhibits 5, 6, 7, and 8). SCC also affirmed that your initial appointment on October 23, 2012 was as an hourly student employee and that you began your hourly non-student appointment on June 17, 2013 (Exhibit 4).

**Relevant Laws and Rules**

The State Civil Service Law is found in Chapter 41.06 RCW. RCW 41.06.070 provides, in part:

(1) The provisions of this chapter do not apply to:

. . .  
(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

The state civil service rules are found in Title 357 WAC. WAC 357-04-010 provides, in part:

The provisions of the civil service rules apply to all employees and employers under the jurisdiction of chapter 41.06 RCW . . . .

WAC 357-19-435 provides:

A higher education employer may make a temporary appointment for the following reasons:

(1) The number of hours to be worked by the individual will not exceed one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, in accordance with WAC 357-04-045; or

(2) The employing official formally assigns a classified employee the duties and responsibilities of a higher-level class for a period of less than six consecutive months.

WAC 357-19-450 provides:

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.)

(2) The position or positions are subject to civil service.

(3) The employee has not taken part in any willful failure to comply with these rules.

The Personnel Resources Board (PRB) has affirmed that "remedial action is based on the hours worked during any twelve consecutive month period, on an annualized basis, from the original date of hire." Rea v. South Puget Sound Community College, PRB Case No. R-RULE-08-002 (2009).

### **Director's Determination**

As the Director's designee, I carefully considered all of the documentation and exhibits in the file. After reviewing your employment records, I conclude the number of hours worked in a temporary/hourly classified position meets the conditions to confer permanent status, as outlined in WAC 357-19-450(1). Therefore, I am granting your request for remedial action.

### **Background**

On October 23, 2012, you were hired as a student employee. This appointment was considered hourly student work and not a temporary/hourly appointment subject to the civil service laws and rules. In addition, your appointment as a student employee does not meet the criteria for temporary/hourly appointment under WAC 357-19-435(1). Additionally, hours worked as a student employee are not counted toward the 1050 hour threshold for granting a remedial action request and conferring permanent status.

For purposes of determining whether remedial action is warranted, the original date of hire is the date you were hired into a non-student temporary/hourly appointment, not the date that you were hired into an exempt student appointment. [See WAC 357-19-440(2)(e) and Article 5.2 of the Collective Bargaining Agreement between the State of Washington and the Washington Federation of State Employees Higher Education Community College Coalition]

Your original date of hire into a non-student, temporary/hourly appointment was June 17, 2013. Therefore, consistent with WAC 357-19-450, the twelve consecutive month period has been established as June 17 through June 16.

**Rationale for Determination**

The twelve month period relevant for this review is June 17, 2013 through June 16, 2014. The following summarizes your work hours included in this period.

<b>PAY PERIOD</b>	<b>NON-OVERTIME HOURS</b>
June 17–30, 2013	52.75
July 1–15, 2013	51.75
July 16-31, 2013	61.00
August 1–15, 2013	44.25
August 16–31, 2013	45.25
September 1-15, 2013	42.00
September 15-30, 2013	44.75
October 1-15, 2013	43.50
October 16-31, 2013	46.25
November 1-15, 2013	45.25
November 16-30, 2013	71.25
December 1-15, 2013	0
December 16-31, 2013	0
January 1-15, 2014	49.50
January 16-31, 2014	45.75
February 1-15, 2014	38.50
February 16-28, 2014	38.00
March 1-15, 2014	50.25
March 16-31, 2014	53.00
April 1-15, 2014	48.25
April 16-30, 2014	61.50
May 1-15, 2014	54.50
May 16-31, 2014	58.00
June 1-15, 2014	51.50
June 16, 2014	6.15
<b>Total</b>	<b>1102.90</b>

Your work hours exceeded 1,050 during the relevant twelve consecutive month period since the original hire date. Specifically, you exceeded 1,050 hours on Monday, June 2, 2014.

You worked 52% of full-time hours for the period of June 17, 2013 through June 2, 2014, the date you passed the 1,050 hour threshold. The percentage of full-time hours is calculated as follows:

Month and Year	Total Non-overtime Hours	Total Work Hours Available
June 17-30,2013	52.75	80 (8x10)
July 2013	112.75	184 (8x23)
August 2013	89.50	176 (8x22)
September 2013	86.75	168 (8x21)
October 2013	89.75	184 (8x23)
November 2013	116.50	168 (8x21)
December 2013	0	176 (8x22)
January 2014	95.25	184 (8x23)
February 2014	76.50	160 (8x20)
March 2014	103.25	168 (8x21)
April 26, 2014	109.75	176 (8x22)
May 2014	112.50	176 (8x22)
June 2, 2014	8	8 (8x1)
<b>Total</b>	<b>1053.25</b>	<b>2008</b>
% of full-time hours	1053.25/2008.00 = 52%	(Includes holidays but not weekends)

In reaching my determination, I also reviewed a prior Personnel Appeals Board (PAB) decision Myers v. University of Washington, PAB Case No. RULE-01-0038 (2002). In Myers the Board found that “[i]n spite of Respondent’s efforts to monitor Appellant’s hours of temporary work . . . Appellant . . . exceeded the 1050 hour threshold.” While the circumstances differ from this case, in Myers the Board concluded respondent had been “aware of its duty and responsibility to monitor Appellant’s hours of work and to comply with the provisions of the temporary appointment rules,” which respondent, for the most part, had successfully done. However, the Board further concluded “the intent of the rules . . . lead to inclusion in the civil service with exclusion being the exception within narrowly defined parameters.” Therefore, the Board granted permanent status.

In this case, it appears that SCC monitored your hours work in an effort to comply with the provisions of temporary/hourly appointment rules. However, SCC erroneously used your initial date of hire as an exempt student employee to determine your original date of hire as a non-student temporary/hourly employee.

Following the guidance in Myers that the intent of the rules lead to inclusion in the civil service, your request for remedial action meets the criteria outlined in WAC 357-19-450. Therefore, you became a permanent classified employee on June 2, 2014, the date you exceeded the 1,050 hour temporary/hourly employment limitation. Your seniority date is June 2, 2014. The percentage of time is 52% of full-time. SCC’s HR Office will establish your position’s allocation, salary range, and periodic increment date, and any vacation/sick leave accrual, holidays, personal holiday, personal leave, and eligible retirement in accordance with the civil service rules. Similarly, SCC will pay the difference between the actual salary paid and the salary due, if any, including premium pay, had the appropriate employment procedures been applied.

In addition, I recommend that SCC review its Hourly/Student Employment Notification and Authorization form to assure that student and temporary employees are provide all of the information required by either WAC 357-19-440 or the Collective Bargaining Agreement, whichever is applicable, and that the information provided is accurate.

**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 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: Kathryn Woodley, SCC  
Robin Ledbetter, WFSE  
Connie Goff, OSHRD

Enclosure: List of Exhibits

**RANDALL MYERS v SEATTLE CENTRAL COLLEGE (SCC)**  
**REMA-14-001**

Exhibits

1. Request for Director's Review form from Randall Myers, received July 3, 2014
2. June 2013 to June 2014 timecard for Mr. Myers sent in as attachment to July 3 Director's Review request
3. July 7, 2014 letter from Director's Review Program asking SCC for information
4. August 4, 2014 cover letter from Kathryn Woodley, SCC in response to Director's Review letter
5. Timesheets – Hourly
6. Appointment authorization
7. Service Record change form
8. Timesheets - Workstudy