



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM

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July 17, 2018

TO: Connie Goff  
Rules and Appeals Section Chief

FROM: Karen Wilcox  
Human Resource Consultant

SUBJECT: Tonya Christen v. Department of Corrections (DOC)  
Remedial Action REMA-18-002

On May 29, 2018, the Office of Financial Management State Human Resources office (OFM State HR) received a request for a Director's review of Tonya Christen's nonpermanent appointment asking the Director to take remedial action to confer permanent status.

WAC 357-19-430 provides the following:

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 employer has made an appointment that does not comply with rules on nonpermanent appointment; or
- (2) The duration of a nonpermanent appointment as defined in WAC 357-19-360 (1) through (4) has exceeded twenty-four months without director approval.

**Background**

Ms. Christen was appointed to position CP69 on a nonpermanent basis effective January 11, 2016. (Exhibit 1) Subsequently, this nonpermanent appointment was extended March 2016, March 2017, and September 2017 with a final end date of January 10, 2018. (Exhibits 5, 6 and 7)

On December 12, 2017, DOC HR sent a request to OFM State HR to extend Ms. Christen's nonpermanent appointment beyond 24 months. The request stated that the former incumbent would not be returning to the position, and the department was to be reorganized. The request additionally stated there was a hold on filling supervisory

positions, and since CP69 was supervisory, vacating the position at the time of reorganization would create undue hardship. (Exhibit 8)

WAC 357-19-360 provides the following:

For what reasons may a general government employer make nonpermanent appointments? A general government employer may fill a position with a nonpermanent appointment when any of the following conditions exist:

- (1) A permanent employee is absent from the position;
- (2) The agency is recruiting to fill a vacant position with a permanent appointment;
- (3) The agency needs to address a short-term immediate workload peak or other short-term needs;
- (4) The agency is not filling a position with a permanent appointment due to the impending or actual layoff of a permanent employee(s); or
- (5) The nature of the work is sporadic and does not fit a particular pattern.

Referring to the length of nonpermanent appointments, WAC 357-19-370(2) provides:

A nonpermanent appointment for a reason specified in WAC [357-19-360](#) (1) through (4) must not exceed twenty-four months unless the director has approved an extension of the appointment **due to the continued absence of a permanent employee**. An employer may choose to not count time spent in formal training programs towards the twenty-four month limit. On-the-job training is not considered a formal training program for purposes of this rule. (emphasis added)

Since the extension was not due to the continued absence of a permanent employee pursuant to WAC 357-19-370(2), on January 2, 2018, OFM State HR denied DOC's request for extension of Tonya Christen's nonpermanent appointment beyond 24 months. (Exhibit 9)

On May 29, 2018, Ms. Christen requested a Director's review of her nonpermanent appointment. (Exhibit 1)

### **Director's Determination**

As the Director's designee, I carefully considered all of the documentation and exhibits in the file. DOC requested extension of the nonpermanent appointment consistent with the rules and in advance of the twenty-four month period's end date of January 10, 2018. However, OFM State HR stated the extension could not be approved citing DOC's reasons were not consistent with WAC 357-19-370(2). Ms. Christen has remained in position CP69 beyond the twenty-four month period's end date. Therefore, I recommend Ms. Christen's request for remedial action to confer permanent status be granted.

### **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: Tonya Christen  
Jenny Warnstadt-Stepp, DOC HR

### LIST OF EXHIBITS

1. Request for Director Review form from Tonya Christen received May 29, 2018
2. June 7, 2018 email opening REMA-18-002 and requesting information from DOC HR
3. June 28, 2018 email from DOC HR explaining circumstance of Ms. Christen's position
4. January 12, 2016 appointment letter to nonpermanent position CP69 (effective January 11, 2016)
5. March 29, 2016 letter confirming extension of nonpermanent position CP69
6. March 3, 2017 letter confirming extension of nonpermanent position CP69
7. September 6, 2017 letter confirming extension of non-permanent position CP69
8. December 12, 2017 email from DOC HR to OFM State HR requesting extension of nonpermanent appointment for CP69 beyond 24 months
9. January 2, 2018 letter from OFM State HR denying DOC's request to extend the nonpermanent appointment for CP69